

Whether the Parliament be not in Law dissolved by the Death of the Princess of Orange? And how the Subjects ought, and are to behave themselves in relation to those Papers emitted since by the Style and Title of *Acts*?

With a brief Account of the Government of England.

In a Letter to a Country Gentleman, as an Answer to his second Question.

Tough you have exceedingly mistook your Man in demanding my Opinion about a Case that lies so much out of my Province, and Circle, that it hath hardly come within the Boundaries of my Conversation, either with Books or Men. Yet not being altogether a Stranger to the Nature of the Government, and the Rules of the Constitution, under which I live; nor wholly unacquainted with the ancient and modern Transactions of my Country; neither utterly ignorant of the Practices of Ages as they remain registr'd in Histories: I will rather both venture my own Reputation, and run the Risque of being censured for straying beyond the Limits of my proper Studies, than not obey your Command in what you were pleased to require of me, and thereby give you fresh and repeated Evidence both of the Authority you have over me, and of the Deference I pay to your Merit, as well as to your Quality. And though I will not pretend to say the hundredth part of what might or ought to be said on this Subject; yet by what I shall be able to lay before you in relation to it, you will easily guess what might have been done, or what

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yet may, by a better and more proper hand. Nor can I now without a Forfeiture of my Credit, and a Departure from Truth, refuse to give you my Thoughts in this Matter; having in my Answer to your first Question stated and pledged my Honour and Faith, that I would also reply to your second; and having also told you, that I had brought under the compass of my thoughts, and in effect digested, whatsoever was needful towards a clear though brief Resolution of it. And I do lay claim to no such Privilege as the breaking of my Word, but am willing to leave the Credit or Infamy of that to the Authors and Publishers of *Hague Delarations*.

Now I am so far from quarrelling at Parliaments, or detracting from the Esteem they ought to be in, or from the Respect that is commonly paid them, that I preserve for them all the Honour and Veneration imaginable, while they confine themselves to the Uses and Ends unto which they were primitively ordained; and govern themselves by the Measures chalked out for them in the Constitution. They are of that early Original, and ancient Standing, that for any Thing I know they are in some sense and degree, though under difference, variety, and distinction of Names, coeval with, or very little subsequent and posterior to our Government. Their Antiquity is such, though not always under the same Appellation, and by the same Stile, nor with the same Allowances of Power and Authority, that *Caput inter nubila condunt*, their beginning is immemorial: So I will not dispute, and much less controul the Testimonies which we have in the *Commentarios* upon *Littleton*, fol. 100. namely, That before the Conquest, and from thence downward, till the end of *Hen. 3.* there had been no fewer than *Two hundred and eighty Sessions of Parliament*; which doth much exceed the Number, during the Reigns of Eighteen Sovereign Kings and Queens that have ruled over this Kingdom since. But were their Institution as modern as some Men will have it, and were they at first illegitimately obtained, and wrench'd from the Crown by Insurrections, Tumults, and Wars; yet having once acquired an Establishment by Law, confirmed by Custom, and ratified by Charters, and sworn unto by our Kings; our Title to the having of Parliaments for the Ends and Uses whereunto they were appointed is not now precarious, but in right belongeth unto us. For unquestionably many Things were at first vested in the Crown, which by having afterwards alienated and parted with, either for the ease and safety of the Monarchy, or for the good and advantage of

of the People, it were unjust as well as unwise for any King to reassume them. Whatsoever comes once to be Legally established by a plenary and lawful Power, is not reversable at the Prince's Will, nor doth it lie under his Authority to annul it at his Pleasure. And therefore all who have written with any Judgment of Governments, Laws, and Politicks, do unanimously tell us, That *ampli-tudo & restrictio potestatis Regum circa ea quæ per se mala & injusta non sunt, pendet ex arbitrio hominum, & ex conventione vel pacto inter Reges & Regnum*; that the extent and restriction of Royal Power in and about such Things as are not intrinsically evil and unjust, do result and proceed from Agreements, Sumpulations, and Compacts, between Kings and those Communities over which they rule: See *Suarez de Legib. lib. 1. cap. 17.* And indeed our *Magna Charta*, and other Charters, as likewise many of our Statutes, are no other than enacted and declared Limitations and Restrictions of the Sovereign and Royal Power; nor can our Kings lawfully depart from or exceed the Confinements and Boundaries of the English Monarchy, which are therein stipulated, fixed, and settled. The Books of the 24 Ed. 3: 65. Stamford's. *Prerogative of the Crown*, fol. 10. and Coke's *Institutes*, fol. 73. tell us, That the first Kings of this Realm had all the Lands of it in their own hands, and were the sole Proprietors of the whole Ground; but it being now alienated and transferred from them, either as Recompences for Services, or as Gifts on the score of Friendship, and Bounty, or by way of Sale for a valuable equivalent in Money, they that are become Possessors cannot be dispossessed of them without a Violation of Law, Honour, and Justice. So that Parliaments, howsoever and whensoever they came to be instituted, they are now incorporated into the Constitution of England as *Apelles Picture*: woven into *Minerva's Shield*, and cannot cease to have an Ingredience into the Government, without a dissolution of the whole Frame of it. Nor will it ever be the Interest of a King of England, to lay aside Parliaments, were it within the reach of his Power to do it; and as a good and wise King will never attempt it, so a tyrannous and arbitrary one will not be able to effect it, were he never so inclinable, provided they behave themselves so, as not to forfeit their Credit in the Nation. The only danger we can fall into of having Parliaments abolished, is the Peoples growing weary of them, and their being provoked to hate them; and this they both may and will have cause for, when Parliaments become not only useless but hurtful. When instead of preserving the Gravity

of a Legislative Assembly, and maintaining the Character of the Representative Body of a great and wise People, they turn more Mobbish than a *Dover Court*, and more rude and tumultuous than the confluence of People when they meet a *Billinggate*: Especially when in the Place of continuing to be the Guardians of our Rights they prove the Betrayers of them ; and for Pensions and Bribes sacrifice those to the ambitious and covetous Lusts of an Usurper, whose Properties, Liberties and Privileges, they were chosen to maintain and defend. And whensoever they degenerate into this, the carrying and maintaining the Name of a Parliament will be so far from preserving unto them the Love, Esteem, and Reverence of their Country, that it will inflame their Rage, and quicken and heighten their Revenge. For when Parliaments not only forget their own Quality, and thereby tempt others to forget also ; but when they transgres and go beyond all the Limits unto which they are circumscribed, and confined by the Constitution ; and especially when they come to pursue Ends directly opposite to those they were at first Erected and Ordained for, they will then provoke the People after their Patience is spent, and their Pressures increased, not only to despise but to disclaim them. And when those Assemblies have under the Pretences of vindicating and asserting the Liberties of their Country proceeded to abdicate their King, and to bring the Kingdom into an expensive and ruinous War ; and yet in the mean time have under that Vizard and Mask proved Instruments of bringing the Nation into Poverty and Slavery, and of promoting the Tyranny of the Usurper, they will thereby exasperate the People, how much soever it may be against their future and true Interest, not only to abandon the love and claim of Parliaments, but to be even desirous to have them annulled and laid aside, as judging *aliter illorum flagitiis subveniri non posse*, that they cannot otherwise punish, stop, and give check unto their Crimes, as I have borrowed the words of *Tacitus* to express it. Nor can I better give the Character of the two Revolutionary Parliaments, and particularly of the *Whig* Members of them, than in the Words of the same Author, namely, *Ut Imperium evertant, libertatem praferunt, si perverterint, libertatem ipsam aggrediuntur* ; that in order to depose and drive away the King, they set up for, and made a Show of acting for Liberty ; but having compassed that , they have assaulted and subverted Liberty it self. So that all they professed to have undertook and executed against his Majesty, for the Recovery

very and Security of our National and Legal Freedom, was only that by enriching themselves they might bring the Kingdom into Indigency, Dishonour, and Bondage. Nor are all their Votes, Resolutions, and Acts, capable of any other Construction ; or of having another Inscription over them, than that *quanto maiore libertatis imagine tegebantur, tanto eruptura ad incensius servitium* ; the more they flattered us with the Expectations and Hopes of Liberty, the more they were intended, at least, lay in a Sublerviency to hasten and augment our Servitude and Thralldom : Yet as to all the heinous Miscarriages I have now mentioned, I look no otherwise upon them than a Disease and Plague that Parliaments are liable to degenerate into under an Usurper, and that under a lawful and legal King they will again recover their sound, healthful, and athletick Temper. And that as they will not cease to be a necessary and useful part of our Constitution ; so they will always be held worthy of the love and esteem of the People, and both held and confided in as the Trustees for their Liberties, and the Guardians of their Privileges and Rights. Yea, many Persons in both those Assemblies, which I have reflected upon, have offended more through the Example of him they advanced over them, than through the efficacy of their own ill Principles ; and have acted rather under the malignant Influence of the Prince of Orange, with whom instead of being punishable to do ill, it is meritorious, than from their own Inclinations and Choice : So that their Faults may be called rather the Vices of the Age than of Men ; and more the Effects of an unjust Government than of personal Corruption and Pravity. And they may be said to have done them, rather that they might be in the Fashion, than that they approved and liked them. For as honest, just, and honourable Things are only then in most esteem, when they are most practised ; so dishonest and unjust are not thought very disgraceful, when they are the Modes of the Court. For it is unlikely but that M^r. Hungerford might think it a slight and venial Offence to take Twenty Guineas of the Chamber of London, as he was Chair-man of the Committee of the Orphans Bill ; when the Prince of Orange, and his Broker Benting, are said to have received very large Bribes of the East India Company for their Charter, which the House of Cominos expected should have been given gratis. And undoubtedly the worst Things practised by some, have been hitherto winked and connived at by others, not out of enmity to their Country, but in hatred to the Usurper ;

that by the Mischiefs accompanying Rebellion, those Subjects that have only been so weak and foolish as to suffer themselves to be misled, may be the better cured of their Disloyalty : And that by what they feel and suffer under an unnatural Intruder into his Uncle and Father in Law's Throne, they may be the sooner and more effectually converted to their Rightful Sovereign. And as for those who have practised those Crimes from Inclination and corrupt Temper, they serve to shew what a miserable Government this is; where either a few little profligate Wretches, or such of higher Rank as are the most vicious and depraved in their Country, come to make a Figure as if they were a needful part of the State. And to fill those Seats, Places and Posts, which used under good Reigns, and during the Sovereignty of Rightful Princes, to be both the Badges and Rewards of Virtue and Desert. Nor ought we to despair, but a time will come when the Nation will so far recover its Wits, as well as its Loyalty, as to make the Punishment of those Miscreants, and Assassins of their Country, a terror to all others from offending hereafter in the like kind.

But though Parliaments have either originally from the first Frame of our Government, or by acquisition from Royal Grants, obtained that Room, Place, and Share in our Constitution, as gives them a great, honourable, and necessary Figure in the *English* Government, and whereof no King can deprive them, while he acteth legally and according to the tenor of our Laws; yet they are so far from having an universal, unlimited, and arbitrary Power, that besides those Restrictions and Limitations which they are under by our Statute and Common Laws, whereof hereafter, they do also stand confined and regulated by the Nature and Quality of the very Constitution, as to all the great Ends and principal Exercises of Parliamentary Power. For though Government, taken in the whole complex of it, cannot safely subsist, and much less provide against all Emergencies, and occasional Mischiefs and Inconveniences, without being cloathed with, and having in some Sense inherent in it, an absolute and arbitrary Power. So that taking the whole compound, and all the constituent Parts of the *English* Government in their Bulk and Complex together, our Government is no less arbitrary and unconfined than the Government of France is. But then that arbitrary and unrestrained Power, as it referreth and belongeth not to the *Executive* Part of Government, but merely and solely to the *Legislative*; so it appertaineth not to any that have

Accession unto and Share in the Legislative separate and apart from one another, or as they are taken disjunctively and distributively, but as they act in conjunction, and are taken collectively. That is, although the whole *Executive* Power of the Government be in the King only and alone, and not any ways in others, than as they derive and receive the respective Authorities and Branches of Power which the Law vests in such and such Officers, by and from his Nomination and Commission; yet neither the King singly and apart, and much less either or both Houses in separation and disjunction from the King, can either Make and Enact, or Repeal and Abrogate Laws. But then whereas the whole *Executive* Power of the Government lodged and trusted with the King, is in all the Parts of it placed in and committed to him, under the Direction and Circumscription of known and existent Laws; so that his very Prerogative, which no Laws have nor can give particular Directions for the Exercise of it, in all Cases and to all the Degrees and Dimensions that it may be needful as well as convenient, is nevertheless in all the just Exertions of it only besides the Laws, but never can be put forth righteously, no more than it can be wisely in opposition unto, or against them. Yea all the honourable Exercises of the Royal and Sovereign Prerogative are for, and in order to the great End of the Laws, namely, the Publick Good; and thereby lie under the Guidance and Conduct of the first and highest Law of the Society, which is that of *Salus Populi*. It is much otherwise as to the *Legislative* Part, by which the King with the Consent of the two Houses may without any foregoing Restriction or Limitation arbitrarily, and with an absoluteness of Power, either enact and establish, or cancel and abrogate, whatsoever Laws he pleases; provided they overthrow not the Constitution, nor alter the first and main Essentials of it. Nor is the Legislative Power of *France* more despotic and arbitrary than this is (and no Man will say that the *French* King is arbitrary, or acts otherwise than according to his own Edicts in the Executive Part) only we give it that Name, because the whole Legislative Right and Authority is lodged entirely in that King, without the Intervention, Concurrence, or Consent of any others; save what is merely obediential in Registering his Edicts, but not Consultative, and much less in any Sense Authoritative; whereas we preclude the Terms absolute, arbitrary, and despotic, out of the Scile of our Legislation, notwithstanding it be in reality and effect.

effect so, meerly because the whole Power of making Laws is not so solely lodged in the King, as that he can do it without the Concurrence and previous Consent of the two Houses. I said that the Power of enacting and abrogating Laws is unlimited and arbitrary in the King and the two Houses; He and they acting conjunctly, and each in their own and proper Spheres, provided they be not such Laws, nor Repeals of Laws, as do overthrow the *Constitution*, or alter or change the chief and principal Essentials of it. For the preservation of, and adherence to the Constitution, is the Measure and Standard of the whole Legislative Power and Authority of *England*. Nor can the King grant, nor the two Houses desire or accept, nor all of them together in their several and respective ways of Concurrence and Influence into the making Laws, enact any such Things, *Quae neque dari, neque accipi, salva Republica possint*; that I may use the Words of *Tacitus*, which may subvert or change the Nature of the Government. For as the Parliament is become an Ingredient into the Constitution, in order to preserve the Liberties and Privileges of the People, and not to betray them; so they stand confined, limited and restrained, by the Form, Nature, and Quality of the Constitution, from all Right, Authority, and Power of making us Slaves, Bondmen, and Villains; and from surrendring, giving up, and parting with our Fundamental Freedoms, Title to Property in our Goods and Estates, or any Thing reserved unto us, when we entered into Society, and became Subjects of the *English* Monarchy. And on the other hand, the King hath also by the Frame and Condition of the Constitution, such Monarchical Powers and Prerogatives vested in him, of which he is not Proprietor to dispose and alienate, but Trustee to keep and maintain, descendable to his Royal Successors, having himself no higher or farther Interest in them, than of *Tenant Right* for Life; so that he stands restrained and disabled by the Constitution from parting with them. Nor can any Bill that hath both passed the two Houses, and which is by the Royal Assent ratified into an Act of Parliament, divest him of, or take them from him. 'Tis true, that it faileth under the Power of a Parliament, not only to make a Grant and Gift to the King of so much of the Goods and Estates of the Subjects as may be either necessary for the support and splendor of his Sovereign Dignity, or needful to empower him upon all Emergent Occasions to defend the Kingdom; but they may likewise alienate and take from a People,

People, *Qui nec totam servitutem pati possunt, nec totam libertatem;* Who can as ill bear too much Liberty as too much Slavery, all those pretended Privileges, and claimed Rights and Immunities, which naturally tempt if not enforce them to be Restless, Turbulent, and Seditious: But no Parliament hath or can have Authority to divest the Subjects of a Title or Right to the Freedom of their Persons, and of a Property in their Estates, save in Cases wherein by the common and known Laws they are forfeited. And on the other hand, it lies under the Royal Power of the King to make such Acts at the Desire and Petition of the Lords and Commons in the way of Bills, by which those Flowers, Ornaments, and Peculiarities of the Crown may be alienated, and granted away from it, which were needless, burthenous, and obviously dangerous to the People, That thereupon Sovereignty in the Prince may amicably consist with Freedom and Safety in the Subject, and that our Princes may have the Honour and Praise which *Tacitus* gives *Nerva*, when he tells us, That *res olim dissociabiles miscuit Principatum ac Libertatem;* He reconciled Sovereignty in the Monarch with Liberty in the People. But then they can make no such Acts and Statutes, nor will the Constitution allow they should, by which the King may either be barred of the Allegiance, Fealty, and Obedience of his Subjects, or be deprived and divested of the Counterpart of it, inseparably appendent unto and resident in himself; namely, of Trust and Power to rule and defend his People. And should either a Parliament be so passionate and encroaching as to present and demand these Things in Bills, or a King so weak or indiscreet as to raise them unto the Title of Laws, by giving the Royal Assent to them; yet they never would be good and legal Acts, nor have the force and virtue of Laws, though they carried the Name, but they would *ipso facto* be void in themselves, as being directly repugnant unto, and perfectly subversive of the Constitution. So that how large, extensive, and unlimitted soever, the Power of a King and Parliament acting in conjunction may be; yet there are some Essentials and Fundamentals of the English Government, whereof a few relate to Privileges incident to the People of England, as they are a free Nation; and divers are intrinsical to the Royal Authority, and inseparable from the Person and Dignity of the King; that the very Constitution makes them Sacredly unchangeable, and sets them out of the reach of King and Parliament to meddle with.

And should they ever attempt it, they would thereby immediately destroy themselves, and become divested of all the Power and Authority they have or claim ; because, deriving all their Jurisdictions from the Constitution, and having no other Title to them but what that gives, whosoever that is overturned and subverted, all other Powers sink and fall with it. Nor is there any Thing more common in our Books, than that notwithstanding the Almightyness of Parliaments, yet there are some Things that cannot be taken away by them. As no Attainder by Parliament lies against a King rightfully gotten into the Possession of the Crown, but he stands *ipso facto* Guiltless and Innocent in the esteem and account of the Law. Nor is it in the Power of a Parliament to take away or dispose of the Right of a Kingdom, as the Case has it, 1 Hen. 7. Neither can a Parliament barr a King of the Right of his Regality, as that no Lands shall hold of him ; and therefore when there was an endeavour carrying on in the beginning of the Reign of King James the First, to have taken away all Tenures by Act of Parliament, it was resolved by all the Judges, That such a Statute, had it been enacted, would have been a void Statute. This might be enlarged in many other Instances, but these are enough to illustrate and confirm what I have mentioned ; only before I dismiss this Head, give me leave to make those Reflexions upon the two *Revolutionary Parliaments*, and their pretended Parliamentary Proceedings, as will serve to set it in a Meridian Light, That they have not only exceeded the Bounds prescribed in and by the Nature, Frame, and Quality of the Constitution ; but they have altered, changed, subverted and overthrown, the very *Constitution* itself, and thereby destroyed the Ancient Legal Government of England ; and have acted Traiterously towards their Country, as well as Treasonably and Rebelliously against the King. And to begin with some Instances in matter of Fact, wherein they have departed from, and have acted in opposition unto all those main Essentials of the *Constitution* which relate to the *Community*, whose Trustees they were originally intended to be for the preserving the Constitution entire and inviolated to them, and to their Posterity. For Parliaments are so far from being by their primitive Institution appointed to be the Representatives of the People, to destroy that which was, and rightfully still is, the *English* Government ; that the great end of their Ordination, and of their being successively chosen, trusted and empowered by the People, is that they may assert,

assert, maintain, and uphold it. Nor can Five or Six hundred Men, though they were both elected by Six hundred thousand, (which I am sure is a far greater Number than all the allowed Electors of Members to Parliaments amounts unto) and though they should receive Credentials and Authorities from those Electors to alter the Government, stand empowered by those means to do it ; but they should and ought previously to the attempting of it, to have either an antecedent Signification of the Will and Pleasure of the many Millions of the Community, and the Nation besides those, or to receive a Substitution by and from them, by which they are made their Representatives and Plenipotentiaries to act for them in that matter, as they in their Wisdom shall find to be most for the Safety, Good, and Interest of the whole Society, or of the universal Body of the People. But instead of this, neither was the Community in the least consulted with, either as to the knowing their Mind and Sense in that Affair, or as to the obtaining from them a Deputation to act and do in their Names and Room, whatsoever they in the Place and Quality of Deputies should judge to be necessary and most useful. Nor yet came these Parliaments together authorised and empowered for any such matter, by those few upon whom the Right of electing Members of Parliament is devolved, for the transacting Affairs in subordination unto, consistency with, and subserviency to the maintenance of the Constitution. Neither indeed could these Electors convey any such Right, Authority, or Power unto them ; seeing all that they stood in a Capacity to chuse them for, was that they might be their Representatives for the preserving of the Constitution, and for the upholding of the Government on the *Basis* and Foundations upon which it was originally established, and did then stand. And yet these Parliaments have, in defiance of all the Rules and Measures of the *Constitution*, and in a treacherous Violation of all the Trust and Confidence reposed in them by their Country, changed the whole Essential and Fundamental Frame of the Government of *England*, and from an *Hereditary Monarchy* have made it an *Elective*. For abstracting from the barbarous and treasonable Injustice they have done the King (till hereafter) they have broken the Chain of the *Lineal Succession* ; and by dissolving that *Link* in the Instrument and *Machine* of our Government, they have destroyed it as to what it was, and what it still ought to be, according both to the Fundamentals of our first Establishment into a *Polity*, and the *Community*.

Common and Statute Laws of the Kingdom. And this they are become guilty of before God, and accountable for in their Lives and Fortunes to their Country, not only by barring the Right of the Prince of *Wales*, who is lineal, lawful, and immediate Heir to the King his Father, and by their vesting the Regal Administration in the Prince of *Orange*, previously unto the Claim and Title of the late Princess of *Orange*, but by postponing and justling out of its natural, lineal, and due Place, the Right of the Princess of *Denmark*. And herein our unthinking, soft headed, Church of *England* Monarchical Men, have suffered themselves to be wheedled by the Republican *Whigs*, into a Conspiracy and Co-operation with them for the destruction of Regal Government. And by their having concurred to break the Line of the Descent of the Crown, they have made it impossible, on the Principles they have acted, to assert the Regal Form of Government in any consistency with themselves, when they come to be pressed on that hand by the *Commonwealth-men*. For by the same Topicks of Argumentation, they may as well be prevailed upon to put by and lay aside any Heir to the Crown, as to shut out and debar the Right one. For as all that your *Democratical* People designed by setting up the Man at *Kensington*, was only to make a President whereby to usher in, and give countenance to an Attempt against Royalty it self; so having compassed their end, they are endeavouring all they can to drop that Gentleman, and to walk him as fast as they can out of the Kingdom. And to be prepared for the effecting of what they have in Projection, they are studying by all fraudulent Arts towards the Prince of *Orange*, and by all the Methods of Treachery to their Country, to wind themselves into those Posts and Places of Interest, Authority and Power, by which they may be put into a condition, and enabled to accomplish it. For though an Elective Monarchy is the worst Government that a People can fall under, yet the Republican *Whigs*, will not be willing to allow us so much as that, but have in prospect the laying aside Kingship it self. For as they know that if the choice of a King were to be made by the *Pole*, they are too few to carry it for one of that Faction by majority of Votes, being in themselves a very diminutive and narrow Party; and only believed to be numerous, because they are more noisy than their Neighbours: So they would be loath to have it come to the *Saber* in the choice of a King, as is sometimes practised in the *Dyets* of *Poland*, the generality of the Faction

Faction being dastardly and cowardly, though extreamly huffy, while they imagine themselves out of the danger of Blows. And by that little knowledge I have of them, they will always be found more faithless, treacherous, and worse Friends, than daring and brave Enemies. But it is hoped that the old Loyalty of the Church of *England* Party will rouse it self out of that Lethargicalnes into which they have been thrown, by their Enemies concealed and covered under the Name of Friends ; and that upon revival and restoration of their former measure of Sincerity and Zeal for Monarchy, they will not only obviate and defeat the Designs of the Republicans, but make them feel their Resentments for having withdrawn, misled , and perverted them from ancient Principles. And indeed how artfully Zealous and Industrious soever your *Trenchards, Sommers, Rices, Clarks*, and your *Commonwealths Men* are, who being so well known I need not Name them, for the extirpating of Monarchy ; yet they are not very likely to compass the extinguishing and abolishing of that primitive and ancient Government of this Kingdom, though they may possibly if longer connived at embroil the Nation, and retard the Restoration for a while. But that is the most they can effect ; seeing as they have no large or considerable Interest either in City or Country, so they have neither Vertue, Honour, or any of those Qualities which may gain the People, either to esteem or to place confidence in them, and much less to follow them with hazard of Lives and Fortunes. But in the mean time what becomes true *English* Men to think of, and to do to these Parliaments, which have altered and overthrown the *Constitution* that gave them the Right and Title to all they had, either in the Freedom of their Persons, or in the Property of their Goods. For they that have subverted the Fundamental Laws, will much more do the same by other Laws, if their Power were but answerable to their Will. And they who have disleisled the *King, Prince of Wales, and Princess of Denmark* of their Right, do not out of Principles of Conscience and Justice forbear to treat all Mankind at the same rate. Nor have thele two Revolutionary Parliaments been contented with the altering of the Government, which both the Constitution bars them from all rightful Capacity of doing, and which through the Interest that every Subject has in it, is the highest Injury and Wrong that can be done to every *English* Man, for whose good Parliaments were originally designed, and not for their hurt ; but these two Parliaments have

in Contempt of, and with the highest Violation of the very Fundamentals of the Constitution, made a Sacrifice to the Man at *Kensington* of the Freedom and Liberty of our Persons, contrary to all the Provisions wrapt up in the *Constitution* for the preserving and securing them unto us. For, Sir, suffer me to tell you, That a Right and Title to the Freedom of our Persons, save where we are precluded from that Right by Crimes against the Government, or against that Justice which is necessary or convenient to be observed amongst Men, doth not accrue and arise unto us either from *Magna Charta*, the *Petition of Right*, or the Statute of *Habeas Corpus*; but it was reserved unto us, and we were kept in Possession of it, by the very Nature and Frame of our Constitution. For our whole Government was founded upon that Supposal and Concession, That it was to be a Government of and over Free-men, and not of and over Villains and Slaves. And the *Great Charter*, and the *other Laws* which I have mentioned, did not create and give us a Right to the Freedom of our Persons; but they did only assert, vindicate, and fence it about. They were not Laws of manumission from Bondage, but declaratory of our antecedent and inherent Title to Liberty. They wistled no new Privilege or Inheritance from the Crown for us, they only repossessed us in what we had been illegally and forceably ejected from. They do not make us a Title where we antecedently had not one; but do only clear up the Title which we had, and set it in a brighter Light. For we had the same Claim to the Freedom of our Persons before those Laws were made which we have now; though through the Fault of those that misled Princes, we were sometimes wrongfully oured of it; and had not those ready and effectual Remedies for recovering it, as we have by *Magna Charta*, and those other subsequent *Laws*. Nor is it unworthy of Remark, that though some Kings, through the Influence and Advice of some ill Ministers, had now and then entrenched and made an Invasion upon that Liberty of our Persons, reserved unto us in those Fundamental Rules upon which the Government was established; yet Parliaments were always heretofore Advocates and Patrons of the Subjects Liberties. Laws relating to the Freedom of our Persons, have been in some Reigns, and by some Judges eluded, and we have not had the speedy and full Benefit of them; but there was never a Law, before these unhappy and disloyal Parliaments made one, by which we were to be robbed of our Liberties without a Forfeiture of them; and

and be made Prisoners without cause. For by those Repeated Acts, by which they suspended the *Habeas Corpus* Law, they turned every *English Man* out of his Birth-right, and stript him of the most valuable Blessing and Privilege of which he stood vested and possessed by the Fundamental Laws of the Government. And by the Authority which they took upon them to convey to the Usurper a Power of imprisoning some, and detaining them in Custody, without either shewing Cause, or allowing the Injured those Reliefs reserved for us in the Constitution; he and his Ministers might have imprisoned One hundred thousand, if they had pleased to say they suspected so many. And that more were not thrust into Goals than there were, was not from a narrowness of Power given to the Prince of Orange, to whom they never gave any Thing confined within the bounds of Discretion and Modesty, no more than of Justice; but from a Scarcity of honest Men at that time in the Nation to merit his Jealousy. And it doth deserve your Observation, That by their suspending the *Habeas Corpus* Act, they not only also suspended *Magna Charta*, and the *Petition of Right*, but they shut us out both from the Benefit of the whole Common Law, so far as it related to Liberty, and from all the Succours and Advantages to which we stood entitled by the Essentials of the Constitution, upon which the Common Law is only a Commentary. For by all these we had a Right either to sue out a *Habeas Corpus*, or to betake our selves to some of the other Methods, as those *de homine repleviendo*, *de odio & Asia*, &c. which the Laws had provided for the Vindication and Recovery of our Freedom: But by one Blow we were barred the relief and help of all the Laws of *England*; and were not only brought into a State of Bondage and Villainage, but were put into a worse Condition than Bondsmen and Villains are. Seeing the Lord of a Villain could not command another to imprison his Villain without cause, as appears in the two Book Cases of the 7 Ed 3. fol 50. and 32 Ed 3. fo. 253. But the Prince of Orange had a Power given him to require his Secretaries, or the Members of his Privy Council, to imprison whomsoever he or they pleased, without the assigning of his Cause for it, save that they thought fit to suspect them. And whereas Villains, when thrown into Prison by their Lords, were not barred the suing out of a *Habeas Corpus*, or of using some other legal means for the Recovery of their Liberty; many of the Peers, Gentry, and Free-men of *England*, have by two several Acts of theirs.

these Revolutionary Parliaments been precluded from all ways and means of regaining their Freedom in a course of Law; and thereby were reduced, during the time of the force and operation of those Statutes, into a worse State than that of *Slaves* and *Bondmen*. And it would seem they had a mind by those *Acts* to establish and confirm the Usurper's Conquest over the Kingdom, and to make us as much his *Vassals* as the *Lloyds* and *Burness* have endeavoured to render us; and to the disgrace of the Nation have hitherto escaped the being impeached for it. And as these Parliaments have, in their *Actings* towards the People, transgressed all the Bounds to which they were circumscribed and confined, by the form and quality of the *Constitution*; so they have departed more extravagantly from all the Fundamental Rules of our Government in those Things which they have acted traiterously and rebelliously against the King. Nor is there so much as one step that they have taken in their Behaviour and Proceedings towards him, but what is directly repugnant unto, and utterly subversive of the *Constitution*. It is true, that by the Nature, Kind, and Quality of our Government, every King of *England* ought to rule over us as over Free-men, and according to those Laws which should at any time be enacted by our Sovereigns, by and with the consent of their great Council; but it was withall provided and taken care for, in the very Mould and Frame of our *Constitution*, that the Person of the King, his Crown and Royal Dignity, should be always sacred and inviolable. I do not say that it was made Lawful for a King to oppres us, or to treat us in what manner he pleased; but instead of that, he was taught by the very Form of our Government that he was to rule over us for our Safety and Good, and to govern by such Laws as we should chuse. Nor can any King do otherwise, without becoming guilty before God both of great Injustice, and of Infidelity, in the Trust that was reposed in him. But in case that through any intellectual and moral Defects in himself, or through the Influence and Advice of evil Men about him, he should be misled and carried to do otherwise, all that is then allowed us is to address God by Prayers, and him by Petitions; and after our refusing to be our selves the Instruments in executing his Arbitrary and Illegal will, both to complain of those that are, and to pursue all the Methods of Law for getting them punished. We always may, and ought to pray, that our Kings may be good; but we are to bear with, and patiently to suffer under them, if they be

be bad. *Bonus voto expetere, qualemque tolerare,* as *Tacitus* expresses it. And he must be a very weak and unwise King, that will not study to carry so, as that his People may not wish another in his room. But should they either be such bad Men themselves as be inclined in their own Natures to oppress their People, or should they be so weak as to be the mere Properties of bad Men admitted into their Confidence; like him of whom *Tacitus* says, *Cui non Judicium, non adiuprat, nisi iudica & iusta;* who did nothing on his own Judgment and Choice, but every thing at the Pleasure and Instigation of his Minions: Yet we are to endure it, and only to refer the revenging of our Condition to God, who can make those Kings that are hurtful to their People, either a terror to themselves, through inward Vexation and Horrour while they are here, or take them hence, and call them to a severe Account at his own impartial and righteous Tribunal. Accordingly it hath always been the Opinion of our Lawyers, save in Rebellious Times, That though the King be under the *Directive* Power of the Laws, yet he is not under the *Coercive*. And suffer me to cite a Passage of *Braston's* to this purpose, where speaking of the King of *England*, as he is and ought to be by the Constitution, he says, *Nec potest ei necessitatem aliquis imponere quod injuriam suam corrigat & emendet cum superiore non habeat nisi Deum & sat erit ei ad penam quod Dominus expetet ultorem;* None can correct the King in that he hath no Superior but God, and that will be sufficient Punishment, that he expect the Lord for his Avenger. Indeed the Constitution both instructs Princes for what end we pitched upon this Species and Kind of Regal Government, and directs them to rule for the Safety, Interest, and Prosperity of their Subjects; but there is no *Original Contract*, nor *Stipulatory Agreement*, by which it is provided, That if Princes do not as they should, they do either forfeit their Sovereign Authority, or that we may lawfully rebel against and dethrone them. Nor do any Presidents or Examples of that kind, as those of deposing *Edward* the Second, and *Richard* the Second, shew, that it was lawful, or a Thing that either the *Constitution*, or subsequent Laws, did authorise and countenance; but they only declared what a provoked People will sometimes do, though it be never so much against their Allegiance and Duty to their King, and most highly offensive to God. However, *vixum dum est legibus non exemplis;* we are to live according to the Laws, and not according to a few occasional ill Practices and Examples.

And *via facti* is not always *via juris*: Nor will the Repetition of evil Things change the Nature of them, and render them Justifiable. For as Civilians say, *Multitudo criminum, & peccantium, non parit criminis patrocinium*. What can be more inconsistent with the Legality of the Abdication, than the King's being vested by the Constitution with such Incidents to Government as lie in a direct Contradiction to our being allowed either a legal or moral Capacity of doing it? namely, That no act of Parliament can barr the King of his Regality, and thereupon that the Allegiance and Fealty of his Subjects to him are indefeasable, and that they can neither be lawfully withheld, nor transferred from him. That the Power and Right of Peace and War are wholly, solely, and unalienably in the King, and that all the Subjects of *England* cannot make and denounce War, *Indicore bellum*, without him, as Coke tells us in his *7 Rep.* 29. Nor need we go farther for understanding the Nature of our Institution in this matter, and for knowing what was involv'd and implied in it, relative to the particular before us, than to those many Statutes that are Declarative and Explanatory of the meaning of it. As that 13 Car. 2. act 6. wherein it is enacted, *That the Sole, Supreme Government, Command, and Disposition of the Militia, and all Forces by Sea and Land, &c. is, and by the Laws of England ever was, the undoubted Right of the Kings and Queens of England*: And that both, or either Houses of Parliament, cannot, nor ought not to pretend to the same; nor can, or lawfully may, raise or levy any War offensive or defensive against his Majesty, his Heirs and lawful Successors. And that other Act, 13 Car. 2. wherein it is ordained, *That whosoever shall hold that both Houses of Parliament, or either House of Parliament, have or hath a Legislative Power without the King, shall incur the danger and penalty of a Premunire, according to the Statute of the 16 Rich. 2.* And that other of the same Year of Car. 2. Which made it Treason during his Life, to compass, imagine, invent, devise or intend, to deprive and depose him from the Stile, Honour, or Kingly Name of the Imperial Crown of this Realm. The President whereof we had, 23 Eliz. namely, *That whosoever shall wish or desire the Death or Deprivation of the Queen, that every such Offence shall be adjudged Felony*. To which I would only subjoin that known Statute which makes it Treason to take up Arms against the King upon any Pretence whatsoever. And to shew the Impudence that always attendeth Disloyalty, notwithstanding all that these Parliaments have perpetrated, they have suffered all these Laws to remain still unrepealed, to remain

main Monuments of their Treasonable Guilt ; and to abide Warnings to all Kings that shall come after, how little Safe they are under the Fence, Covering, and Protection of Laws, when they have false and treacherous Men to deal with. And that which heightens the Crime, and enhaunceth the Guilt of those Parliaments, is that they have usurped and exerted a Power inconsistent with and subversive of the Constitution, in the abdicating and driving away a Prince, who was the least chargeable with Miscarriages and Excesses in his Government of any that ever sat upon the Throne. For as his greatest pretended Faults were rather Mistakes he was led into by others, than Injuries he chose to do of himself ; so most of them proceeded from an excess of Love to his People, and from an *Ardour* of making them happier than they were willing to be ; and not from Disaffection to them, or a Design to render them miserable. Nor did those slight Grievances of which his People so clamourously complained, flow from his being a bad King, but from the having bad and treacherous Friends about him. For though no Prince did ever, by Condescension, Bounty and Confidence, deserve to have had better Ministers and Friends ; yet with respect to too many about him, few Princes ever less had them. So that what *Tacitus* says of one may with a great deal of Truth be applied to his Majesty, though not so much to his Dishonour as to the Infamy of those whom he employed and trusted ; namely, That *Amicos meruit, magis quam habuit* ; *He was wrothy of faithful Friends, rather than bad them.* I would not be thought to intend what I have said of all that had the Honour to be esteemed his Friends, Ministers, and Servants, it being only designed to affect a few of them ; but they were such as had frequentest and nearest Acces to him, and greatest Interest in, and Influence upon his Councils, whom he trusted too much to be well served by them, and put himself too much in their Power to have them remain Faithful. For that of *Tacitus* will always hold true, *Nec unquam satis fida potentia, ubi nimia est.* In a word, never did a People run head-long into Rebellion and War, upon so few and small Faults in Government, and so easy to have been borne with, or obviated in modest and legal ways. So that had the means which we fled unto for Relief been Lawful (whereas they were Criminal and Treasonable in the highest degree) yet it was the height of Folly and Madness to use them upon such slight Occasions, where the Remedy hath been a Thousand times worse than

than ever the Disease could have been. Common Prudence, had we renounced Loyalty, should have taught us, That Force is never to be practised, where, Laws and humble Applications would have served ; and that violent means should not have been used, where gentle would have done. *Non utendum Imperio*, says Tacitus ; and I will add, *multo minus bello, ubi legibus agi possit*. And the mildest Character I can fasten upon our two Revolutionary Parliaments, abstracting from their Disloyalty and Treason, is that they have been *graviores remedis, quam delicta erant*, they have almost ruined and destroyed the Nation, on pretence of redressing Trifles. Nor indeed was it any Thing he either had done, or designed to do, that threw us into that brutal and disloyal Rage ; but he was a *Catholick*, and the *Demagogues* and *Incendiaries* had taught the weak and bigotted part of Protestants to hate him for his Religion ; & *invisi semel Principi, seu bene seu male facta premunt*. When a Prince is once wormed out of the Love of his People, whatsoever he then doth, though it be never so much for the Benefit of his Subjects, it will be misinterpreted as done to their hurt. Nor will it ever cease to be an Aggravation of the Guilt of our Rebellion, that we feared his Majesty's redressing what we had gotten represented unto, and believed by the Nation to have been illegal, grievous, and arbitrary. For most Men do now know, That if the Submission which they of *Magdalen College* sent up to my Lord S— to be laid before the King, had come to his hands, it would immediately have stopt all Proceedings against them, and have restored them fully to his Favour and Grace : But that Submission was concealed from his Majesty not only out of Treachery to him, but out of Design to serve the Prince of *Orange*, in keeping on foot one of the great Designs of his Invasion. And although the King gave large and uncontroulable Proofs of having Royal Inclinations, beyond what any King ever had that sat upon the Throne of this Kingdom, of retracting and redressing all those Things which he came to be convinced of to have been done amiss and illegally ; yet that would not allay the Furious and Rebellious heats of those who had a mind to enrich themselves with the Spoils of the Crown and Kingdom. And therefore when all Things were restored to the State and Condition, which his most peevish Enemies would have wished or desired to have had them, yet the traitorous Ferment was kept up still in the former height. Nor doth any Thing better demonstrate how imprudently, as well as wickedly, we abdicated the

the King, than that Four parts of Five of the Kingdom would be glad to have him here again upon the Terms he offered before we drove him away ; and very many would think themselves happy, and account it a good Bargain, to have him here upon any. How little does the King's employing a few Catholicks in Civil and Military Trusts weigh and amount unto, when laid in one Scale, against all the Blood that has been spilt, and all the Losses that have been sustained, and all the Treasure that hath been consumed for supporting of this Rebellion, when they are laid in the other Scale ? And the Exchange we have made so infinitely for the worse, sheweth both our Folly, and is a just Punishment of our Sin in making of it. Nor wanted there Truth or good Sense in the Reply which a plain Country Farmer made to his Neighbour, who was complaining of the grievous, insupportable Taxes, and of the many other Losses, Pressures and Oppressions, under which the Nation groaneth , viz That these were the Blessings and Advantages which we had gotten and obtained by *swapping of Kings*. For this Man's little Finger is much heavier than the King's Loins were. His Majesty loved his People, and would have been contented to have made them happy at the Expence of his own Prerogative, and with some diminution of his Sovereign Rights : But this Intruder into the Throne hates both Country and People, and only useth us in the Service of his own ambitious Ends, and to gratify the Rapacity and Covetousness of his beloved Dutch . And in the same manner that Solomon distinguished the *true* Mother from the *false*, namely, by the compassionate, tender, yearning Bowels of the one, and the inhuman, barbarous Cruelty of the other, may we distinguish our Rightful King from the Usurper , and learn which of them we are in Duty to chuse and obey. I might add , as a further Aggravation of the Folly of those two Parliaments in what they have done, That by their violating the Constitution to the Injury of the King , they have set a Pattern as well as given Provocation to some brave and daring Prince, that may hereafter sit upon the Throne, to do the like in prejudice of the Subject. For it is the same Injustice (abstracting from Treason) in the People to rob the King of his Crown and Royal Dignity, as it would be in a King to invade the Liberties and Properties of his People. Nor is it more unlawful for the one to overthrow the Constitution, and change the Government, than it is for the other to do it. Not that such a Thing is to be feared, though we have

deserved it. For though some Subjects may grow Rich by spoiling the Crown, yet no King of *England* can ever become Great or Opulent by breaking in upon the Privileges of the People. And therefore he will forbear it out of Interest, if he should not out of Duty. And he will keep to the Terms of the Constitution upon Motives of Wisdom, should he not be inclined to do it upon Inducements of Justice. For whensoever a King of *Great Britain* insults over his People, he immediately sinks himself into a Condition of being contemned and despised by all the World.

I might also, Sir, lay before you, how that Parliaments are not only in the Exercises of their Parliamentary Power under the Direction and Continement of the Essential and Fundamental Rules and Measures of the Constitution; but how they are under the Regulations, Limitations and Restrictions, both of our *Common and Statute Laws*. For as their Being is a legal Being; their Capacities under which they sit and act, legal Capacities; their Busines and Employment, a legal Employment; and the Ends they come together for, legal Ends: So they are in all these, and in all the Concernments they assemble, consult, or act about, under the Influences, Direction, Conduct, and Restriction of the Laws. Though there be a Provision made in the Constitution, that at Times and Seasons, and upon necessary Exigencies and Occasions, and for needful and indisputable Ends, there should be Parliaments, and that it is the Right and Due of the People of *England* to have them; yet they do receive their actual Existence, and come into Being by the *Fiat* of Sovereign Authority, and by the King's *Writs* that raise and assemble them. And they would according to the Common Law be a riotous and tumultuous Rout, and not a Parliament, or a legal Assembly, should they meet without being called and raised into their Existence by the creative *Writs* of the King. And suppose that those Laws of Ed. 3. were yet in force, for our having Parliaments once a Year, or oftner if there be need; or suppose there were, or be any other existent standing Law, adjusting and defining the Times and Seasons, within the Compacts and Circle of which we ought and are to have them: Yet it is not only from the Regal Authority in granting those Laws, that it comes to be our Claim to have them within the Bounds of such Periods of time; but the performing and putting in Execution what such Laws enact and direct, is still to be lodged in the King, that unless he pleafeth to call them by his Royal *Writs*, they have no Power to meet notwithstanding.

withstanding those Laws. And should a King omit the issuing out his *Writs* whereby to call them at, and within those Seasons, it would possibly be a Failure in his Administration, and in the executive Part of his Government; but our Remedies in that Case were only Patience, and humble Applications to the King, by decent and modest Petitions, for his vouchsafing to give us the Benefit of those Laws. For after all the Laws that can be made for adjusting and determining the Times for the meeting of Parliaments, yet the Power to call them remains still so inseparably inherent in the King, that they cannot assemble, nor rise and spring up into Being, but in the Virtue, and by the constitutive Power of his *Writs*: Nor when assembled can they continue a Moment longer in their Existence than he thinketh fit to allow; but they are dissolvable, and become actually dissolved, when he pleaseth to pronounce them to be so. And were there a Pretence of Claim resulting to Parliaments, when once called and assembled, that they should continue to sit till all the important Petitions of the Subjects were answered, as is said to have been the Practice during the Reigns of *Hen. 4.* *Hen. 5.* and some part of the Reign of *Hen. 6.* yet this would not disable the King from dissolving them in the *Interim*, and antecedently to their making Answers to such Petitions, though possibly his doing so may be stiled Irregular. And as Parliaments both come into Existence, and fall into Dissolution, by the Will and Pleasure of the King, exerted in the known Methods of Regal Administration: So while they are permitted to sit, they can neither make nor repeal a Law without the Royal Assent, giving the legislative and enacting Efficacy to their *Bills*, which in the Language of former Ages was called, *the giving Answers to their Petitions*. Nay, should Parliaments prepare Bills containing in them no new Demands, or Provisions of Safety and Advantage to the People, but only claiming a declarative Confirmation of what already belongeth to the Subjects by Antient Laws; yet even a *Bill* of that Nature, which hath the quality of a *Petition of Right*, cannot grow up and commence into a Law, but by the King's *Soit Droit fait comme il est desire*, *Let Right be done as is desired*. I might add, how Parliaments are under the Direction of the Laws, both with Reference to all the several *Capacities* in which they sit, and with Respect to all the principal Matters they are to meddle with. For Example; whereas the House of Commons being once legally met, doth sit in a *fourfold Capacity*; namely, as the great *Representatives*

of the *Community* for relieving the King's Wants, and enabling him both to defend the Kingdom, and to live in a Port answerable to his Royal Dignity : And as the grand *Inquest* of the *Nation*, for inquiring into Grievances, and prosecuting Offenders : And as a part of the King's *great Council*, to give him Advice in the *quibusdam Arduis* about which he calls them : And as part of the *Legislative Body* of the Kingdom, to prepare or concur to such Bills as are to be offered to the King for the Royal Assent. Now in all these several Capacities they are to act under the Regulations and Restrictions of the Law : Nor are they in any of them to act Arbitrarily, but to behave themselves in every one of them according to the Laws and Customs of the Land, the Rules and Methods of Parliament, and the Patterns and Examples of foregoing Ages. Now it were easy to shew, beyond all possibility of being rationally contradicted, how the two late Assemblies, abusively stiled Parliaments, have in all those Capacities departed from, exceeded, and transgressed against the known Laws of the Kingdom, and the Rules of Parliaments, and the Examples and Presidents of former Ages. For as the present Assembly of Men at *Westminster*, which passeth under that Name, met and have sat upon the *Wraths* of an *Usurper*, who hath no more legal Power to call and summon a Parliament, than a *Jack Kade*, or a *Perkin Warbeck* have : So that Company stiled a *Convention* came together upon the Invitation of a Person who at that time, even upon their own Principles, had not a Shadow or Umbrage of Right for calling them ; but what a *Mafianello*, or a fortunate Robber, may at any time claim. And their meeting under the Notion and in the Quality of a *Convention*, which is a *Term* that hath no Existence in our Law, clearly demonstrates, That the Thing so denominated must by consequence be altogether and wholly illegal. Nor had they any more Right for their coming together, and acting upon the Prince of Orange's Invitation, than a Rout and an Assembly of Rioters have to dispose of other Mens Properties, and to transfer their Estates. And it is without President in any Age, save in Times of acknowledged *Usurpation* and *Rebellion*, That a Company of Men, pretending to no other Stile save that of a *Convention*, should change and transform themselves into a *Parliament*, and be the *Creators* of themselves into a *Creature* which they were not before. Nor are any of the *Metamorphosations* in *Ovid*, though all meerly Poetical and Fabulous, so ridiculous and extravagant as that of the *Conventions* translating it self into

into a Parliament. For all those of that ingenious and witty Poet, save where the feigned and imagined Gods themselves put on and assumed new Shapes, were the Effects and Operations of pretended Deities upon interior and different Beings: But that *Parliament* made of a *Convention* was a Production and Generation of it self into a Creature specifically distinct from it self, and that by no higher or other Power than its own. And were it not for the woful and ruinous Effects which they have caused and produced, the reasonable Part of Mankind would have looke upon that Transformation as a Piece of *Legerdemaine*, and a Trick of Mountebanks whereby to divert the Idle, and make sport to the Kingdom. And it is hard to forbear being pleasante upon it, and the exposing it with all the keones and piquancy of a just and deserved Railery; but that the many Mischiefs which they did the Nation, and the Poverty, Slavery, and Bondage, which they have derived upon us, will not allow, but do forbid the being merry and jocose. I might subjoin how both the Parliaments, since the Revolution, have shamefully exceeded the Bounds which Laws and Presidents should have restrained them unto; and have ventured upon Matters which lay wholly out of their Cognizance, and beyond all the Precincts of their Legal, Rightful, and Parliamentary Power. The time was when a House of Commons did so well understand the Limits of their own Sphere, and the Boundaries within which they were to move, that when lawfull Kings have asked and prayed their Advice in matters out of the Circle of their Province, they have excused themselves from giving it; and have declared that they were Things of so high a Nature, and so peculiarly incident to the Royal Dignity, that they neither could nor durst meddle with them. And therefore when *Richard II.* asked the Opinion and Advice of the *House of Commons* about the way and manner of prosecuting the War he was engaged in against *France*, they answered, *Nec dicit nec solois appertine al eus mes al Roi*, They neithier ought nor used to belong unto them, but the King; see the Parliament Roll, 6 Ric 2 par. 2 pag. 9. And when *Edward III.* had desired the same Thing of the Commons in reference likewise to his War with *France*, and about the guarding of the Sea Coast, the Commons make Answer, *Qu'ils ne sont charge a councell donez al chose des quel ils n'ont pas cognaisance*, That they desired not to be charged to give their Advice in a matter wherof they can take no Cognizance; see the Parliament Roll of the 13 Ed 3 par. 1. n. 2. The like Answers were made by the House of Commons the 23th

of *Edw. 3.* and the 7th of *Ric. 2.* And whereas in all the Regal Writs for the calling of Parliaments they are required to meet and come together to give the King their Advice, it is always with this express Limitation, That he desires their Advise *pro quibusdam ardus negotiis nos & defensionem Regni nostri Angliae, & Ecclesiae Anglicanae concernentibus,* About some Affairs which concern the Defence of himself, the Kingdom, and the English Church. But these Parliaments instead of coming together to Advice and Provide for the Defence, or for the Restoration of their Rightful King, they first abdicated him, and have then impoverished the Nation, by maintaining an expensive War to hinder his Return. Instead of confining themselves to *quædam ardus Regni,* they have struck at the King's Person, Crown and Dignity, and have medled as boldly in changing the *Polity of England,* as if they had been determining about some little Privilege of their own House, or had been merely concerned about the Ejecting or Imprisonment of one of their Members. But though all of them have been less or more involved in these Crimes, yet many became Accessary to them to prevent worse, namely, to obviate a civil War, and to hinder a Republick upon the next voidance of the Throne. And they have submitted both to defile and wound their Consciences, that they might testify their Love and Zeal for the Monarchy, and cover and conceal their Loyalty to the King. Rather than put themselves out of Capacity of asserting and upholding the old *English* Regal Form of Government, when it comes directly to be attacked, and of doing the King service when an Opportunity offereth ; they have been contented to undergo a Stain upon their Honour, as well as the having their Loyalty brought under an Eclipse. For it comes to pass in these Epidemical and Raging Distempers of Kingdoms, as it did in the great Plague of *Athens,* of which *Thucydides* speaks ; whereof as most died, so those who escaped with their Lives were all left deformed and maimed ; one losing an Eye, and another a Limb, but hardly one preserved from visible and disfiguring Defects. But while those wilful Crimes in many, and human Frailities in all, have cut out much work to themselves for Repentance ; so they will only serve to furnish the injured and good King with a large Occasion and an ample Theater of displaying his Mercy and Grace. Nor are there any so heinous Offenders against him, whom he is not ambitious as well as ready to forgive ; if they will but make themselves so far capable of Pardon, as to desire and accept

accept it: And to have any despair of his Grace, provided they will repent and return to their Duty, would both more grieve and offend him, than all they have done in deposing him, and driving him from his Kingdoms. Nor doth he question but that most of those, who have both refused to have him Reign over them, and have been ready to abjure him, will whensoever they are converted, be not only the most zealous in Loyalty themselves, but the forwardest to confirm others in their Fealty. Neither will any thing be more pleasing and delightful to the King, than to see those love much to whom much hath been forgiven.

But abstracting from the Disloyalty of that Assembly styled at present a Parliament, and its Nullity on that foot to be legally one, and granting to those Gentlemen all their own *Hypotheses* how treasonable and rebellious soever they be; yet I say, that according to all those Laws which themselves own, and profess to be both under the Obligation and Guidance of, they ceased to be a *Parliament*, and became dissolved in *Law* upon the Death of the late *Princess of Orange*. For admitting the Prince and Princess to have been *King*, and *Queen*, and that they had a *Rightful and Legal Authority* to call a *Parliament*, and that this Parliament was duly chosen, lawfully assembled, and sat vested with all the Power of acting in that Capacity that ever any Parliament did; yet I do both repeat and affirm it, That since the Death of the *Princess of Orange* they have been no *Parliament*, and have no otherwise continued to possess their Seats, and to act in the Quality and by the Stile they have done, than by a most illegal and unprincipled *Usurpation*. Of all the Parliaments that ever were, none had that seeming Security to make their Sitting everlasting, as that which met the *Third of November, 1640*. It having been enacted in favour of the Continuance of that Parliament, That it should not be prorogued, adjourned, nor dissolved, but by and with their own Consents, and by *Act of Parliament*. And yet all the Lawyers are of Opinion that it became dissolved *an. 1648.* by the Death of King *Charles the First*; whose Writs had raised it into Being, and given Existence to it. And accordingly the Parliament of the *13 Car. 2.* took it for granted, That it was undoubtedly dissolved and determined, and thereupon declared and adjudged it so to be fully dissolved and determined; *Cap. 1.* Though there had never any *Act* passed for the dissolving of it, and consequently in the Opinion of those who made that Statute *1663,* it must have come to be dissolved by the Death of King *Charles the*

Furst who called it, and to advise with whom it assembled and met. For as to Oliver's turning those Members forceably out of the House, that could be no legal Dissolution, if after the *Death* of Charles the *First* they had a legal Right to continue to sit, until both themselves should consent that they might be dissolved, and until an *Act* were past for their dissolution. I do confess that the Statute 1640. which I have mentioned, was one of the greatest Encroachments upon the Regal Power that ever was, and therefore in my Opinion was void in it self, because of the direct repugnancy in which it lies to the Essential Rights of the Sovereign, and of its Irreconcilableness to those *Incidents* which are inseparable from Royal Power. And as it proved by the Event, The day that King *Charles* gave the Royal Assent to that Bill, he put the Scepter out of his own hand, and the Sword into the hands of his Enemies. Which made the Earl of *Dorset* salute the King the next Morning after his passing the *Bill* by the Stile of *Fellow Subject*; because he had by that *Act* transferred Crown, Sword and Scepter, to the Parliament. And *Archy*, the King's Fool, being asked whether the King had done well in passing that *Bill*? Answered, That he knew not whether the King was the greater Fool to pass it, or they the greater Knaves to ask it. And I have been told that the greatest Lawyers at that time in the Kingdom said, That it was void in it self. And indeed the Law presupposeth that all the Grants and Concessions of the King are to be construed to be made with this *Proviso*, That they are granted *salvo jure Coronæ*. But to proceed in what I have undertaken to lay open and demonstrate; namely, That supposing the King to have been legally and justly Abdicated and Deposed, and that his *Son*, the Prince of *Wales*, was rightfully and lawfully Barred and Precluded, upon the Score and Foot of Supposititiousness, from succeeding immediately to his Father; (though all that was done Traiterously and Rebelliously) yet this Parliament ceased to exist, and became dissolved by the Death of the *Princeps of Orange*. For these very Gentlemen will not deny, neither can they upon their own Principles, that upon the Abdication of the King, and the Exclusion of the Prince of *Wales*, the *Princeps of Orange* became immediately vested in the Sovereignty, as having therein an *Estate Tayle*, unless she had been shut out by some *Act* or Statute, expressly made to exclude and barr her (though indeed such a Statute would have been in it self void and treasonable.) For according to the standing, known, and acknowledged Laws

Laws of this Kingdom, the Crown of England upon every Voidance of the Throne, is to descend to the next lineal and immediate Heir, Female as well as Male, and the said Heir (according to their own disloyal Hypotheses) unless barred by some Act of Parliament, becomes actually vested in all the Rights of the Sovereignty. Accordingly we have not only a Law in force at present, by which it is declared that *the Law of the Realm is, and ever hath been, and ought to be understood, that the Kingly and Regal Office of this Realm, and all Dignities and Prerogatives Royal, &c. being invested either in Male or Female, are, be and ought to be, as fully, wholly, absolutely and entirely, deemed, judged, accepted, invested and taken, in the one as in the other, &c.* 2 Par. 1 Mar. cap. 1. but we have also another Statute in actual being, stiled an *Act of Recognition, that the Crown of England is lawfully descended to King James, (viz. the First) his Progeny and Posterity,* which containeth the Words following, *That we being bound thenceunto by the Laws of God and Man, do recognize and acknowledge, that immediately upon the Dissolution and Decasement of Queen Elizabeth the late Queen of England, the Imperial Crown of the Realm of England, and of all the Dominions and Rights belonging to the same, did by inherent Birth-rights, and lawful and undoubted Succession, descend and come to your most Excellent Majesty, as being Lineally, Justly and Lawfully, next Heir of the Blood-Royal of this Realm, &c.* So that nothing can be more demonstratively Evident, than that upon whatsoever Hypotheses or Principles the Conventionists, and those who have succeeded them in this Parliament have acted; yet that immediately upon the Voidance of the Throne, by the abdication of the King, and the barring the Prince of Wales to succeed, the whole Royal Power became vested in the Princess of Orange. And though the exercise and execution of that Power came to be lodged in the Prince her Husband, yet that it was in the Administration of the Power of Sovereignty, which by the Laws appertained unto, and was essentially stated in her, which they neither did, nor pretended to take from her; but the whole which they assumed and took upon them a Right to do, was to make a Donation, Communication, and Conveyance of the same Royal Dignity, with all its Powers, Prerogatives, and Jurisdictions unto him. And whereas therefore the Regal Power was owned and acknowledged to reside likewise in the Princess, thence it was that her Name was used in the whole executive Part of the Government, and that not in Compliment, and merely to testify Respect and Deference, but

as indispensably Necessary, on the foot of the Sovereignty, Regal Authority and Power, whereof she stood indefeasibly seised, possessed, and vested. So that unless her Name had been mentioned in all the executive Acts of Government, all those Acts would have been in themselves void, illegal, and null; through the want of the Stamp and Impression upon them of a Person that stood cloathed with the Sovereignty. And as to that separating in the late *Princess of Orange* the exercise of the Regal Power from the Royal Dignity, and from the Jurisdictions and Authorities belonging to the same, it not only looks like unto, and indeed is a plain and manifest Contradiction; but it was done in revival of that old Republican and Traiterous Proposition and Notion, of distinguishing and severing between the King's Person and his Authority; and was intended by the crafty Suggestors of it for the Service of a Commonwealth Design, when an Opportunity and a convenient Season do offer. For if one Parliament can take the entire and full Exercise of the Royal Power and Government from and out of the hands of a *Queen*, whom themselves acknowledge to have been *vested in the Royal Dignities, with all the Honours, Styles, Titles, Regalities, Prerogatives, to the same belonging*; another Parliament may, by the same Right, and with the like Justice, take the whole executive Power, and the entire Administration of the Government from any King or Queen whatsoever; and may place it in both, or in either of the Houses, or in whom else they please. So that a King of *England* may come in time (and by this President, if allowed, cannot avoid it) to be a meer Pageant; a King having a glorious and guilded Title, but made wholly useleſs to all the great Ends and Purposes of one; and who will serve only to be gazed upon, to have the Knee bowed to him, and to be made a publick Mockery and Derision in all the Regal Acts of the Government, by having his Name mentioned, while others have the Exercise, and are in the Exertion of the whole and entire Sovereign Power. Nor was the late *Princess of Orange*, upon the *Abdication* of the King, and the *Exclusion* of the *Prince of Wales*, merely seised and possessed of the Sovereign and Royal Dignity over this Realm, as she was next lineal and immediate Heir to his Majesty; but she had also the legal Authority and Power granted and conveyed unto her, by the *Gift and Donation* of the *Convention*, which the present Parliament instead of controuling, retracting and annulling, did recognize, own, and confirm. Nor had she meerly the bare and naked

naked Name of Queen given and conveyed unto her, but she was declared to be vested with the whole and entire Royal and Sovereign Power, save that the Exercise of it was limited and confined to the Prince of Orange. Now you must not think that I am so thoughtless and weak as to endeavour to prove her being possessed of the Sovereignty, and her being clothed with the Royal Jurisdiction, because Treason might have been committed against her, yea and against her natural Person; seeing it was not only made High Treason by the Statute of the 2 Parl. in the first Year of Queen Mary, to compass the Death of King Philip, or to deprive him of the Stile or Kingly Honour of this Realm; but because it had also anciently been made Treason by the Statute of the 25 Ed. 3. to compass the Death of the King's eldest Son and Heir, to violate the King's Companion, or the King's eldest Daughter unmarried, or the Wife of the King's eldest Son and Heir, or to slay the Chancellor, Treasurer, or the King's Justices of the one Bench or the other, Justices in Eyre, or Justices of Assize, and all other Justices assigned to bear and determine, being in their Places, and doing their Offices. But I will do it by laying before you so much of the late Act of Parliament as relates to my purpose; which that I may give the greater light, strength, and vigour unto, I shall likewise represent to you the Act of the 2 Parl. of Queen Mary, which was held in the first Year of her Reign, that by your Observation thereupon, in what different Terms, and enlarging Expressions of Power, the Prince of Orange was made, declared, and enacted Queen, from those by which Philip was precluded and shut out, from the having or exercising the Regal Power, even when he was honoured with the Regal Stile and Dignity; you may easily and fully know, that the whole Sovereignty, and Regal Power and Jurisdiction, were in the late Prince, whereas no part of them was allowed to Philip: For at the same time, and by the same Statute, when and by which Philip had the Royal Stile, Title and Honour, given and imparted unto him, and was constituted and pronounced King, elevated above the Quality of a Subject, which a King or Queen Consort are not, it was ordained and enacted, *That the Queen might and should solely, and as sole Queen, use, have, and enjoy the Crown and Sovereignty of and over all these Realms, Dominions, and Subjects, with all the Preeminencies, Prerogatives, Dignities, Authorities, Jurisdictions and Honours, thereto belonging, &c.* And that no Rights or Claims of Sovereignty should be given, come, or grow unto the said Philip, over these Realms and Dominions. But now the Act of Settlement,

ment, in and by which a Donation is made of the Crown and Royal Dignity to the Prince and Princess of Orange, runneth in a much other and far different Stile. For after that Assembly had assumed and usurped to it self a Right and Authority of disposing and bestowing the Crown of this Kingdom, and after they had in their signal Goodness, Condescension and Bounty, made a Donation of it, and of the Sovereign and Royal Dignity, to the Prince and Princess of Orange, declaring that thereby they did become our Sovereign Liege Lord and Lady, King and Queen of England, &c. they then further add to those Princely Persons, the Royal Estate, Crown, and Dignity of these Realms, with all Honours, Stiles, Titles, Regalities, Prerogatives, Jurisdictions and Authorities, to the same belonging, are most Fully, Rightfully and Entirely, invested, incorporated, united and annexed. So that we may by comparing the Communication of the Royal Name, Stile and Dignity, made by the former Act, with the Conveyance of the same with the subjoined and annexed Jurisdiction, &c. made by the later Act, come to understand, that the whole Sovereign Royal Power and Authority over these Realms became vested in the Princess as well as the Prince of Orange; which they were not in Philip, but only in Queen Mary. But to all that which I have already advanced, I go on further to add, That even on the Principles of the Gentlemen of the two Revolutionary Parliaments, the whole Sovereignty was not only as wholly and as entirely in the Princess of Orange as it was in the Prince, but that it was one and the same Individual Sovereignty, though lodged in two different and distinct Persons; and I must withall say, That though they were Two in genere Physico, in the Predicament of Substances, yet they were but One in conspectu Legis, in the esteem and account of the Law. The Royalty and Legal Authority was not divided between them, one Share falling to the Lot of the Prince, and another becoming the Portion of the Princess; but it was the same entire, undivided, numerical Sovereignty in them both. For this the Act of Settlement doth as plainly declare as Words can express it; namely, That the Prince and Princess of Orange, being become our King and Queen, that therefore in and to their Persons are the Regal Estate, Crown, &c. fully, entirely, invested, incorporated, united, and annexed. And therefore all Commissions, Grants, and the many other Exercises of Sovereignty, were ordained to be, and have accordingly been, in both their Names. Nor did that Union and Conjunction of their Names in all Cases, wherein the Royal Authority

Authority did, or could exert it self, proceed from a Contribution of Regal and Sovereign Efficacy and Authority which each of them gave to every Act of Jurisdiction, both clubbing those distinct Shares and Parts of Regal Power which they possessed separately, and by *Moyeties*; but it had its Foundation in, and flowed from that numerical Unity of Regal Power, Authority and Jurisdiction, which they stood vested with as one legal Sovereign, though two physical Persons. In a Word, though *William* and *Mary* were two several and distinct individual Persons of the human Species, they were but *un Roi*, one singular King, in their Politick Station. And to place it beyond being contradicted by any reasonable and discreet Man, that the Sovereignty was as fully in *her* as in *him*, and that it was but one and the same Sovereignty lodged in both, not only all the Acts flowing from the executive Part of the Government do run in both their Names, but all the Acts of the legislative Part do so also. Nor do the several Acts of Parliament which have passed during the Usurpation bear only the Style of the *Acts of William and Mary*, but the Royal Assent (as it hath been miscalled) was given in the Name of the *Princess* during her Life, as well as in the Name of the *Prince*. And to add that upon which the great Weight and Stress of this Point doth lie, namely, That the *Writs* by which this Parliament was called, and had its Being in Law given unto it, were issued out in both their Names, and were the *Writs* of the *Princess* as well as of the *Prince of Orange*. Nor is it necessary that I should insert here a Copy of the *Writ*, any farther than that it runs, *Guilhelmus & Maria, &c. Anglie, &c. Rex & Regina.* And as I have said before, *her Name* was not used in it merely from an honorary Esteem had of *her*, but as indispensable and intrinsically Necessary to give the *Writ* its legal Power and Validity; and without whose Name it had been void of all operative Virtue for the Constitution and Erection of such a Number of Men into a Parliament, or for the giving Existence to a legal Court of that Denomination. And had *her Name* been wanting in the *Writ*, all those several Congregations of People in the Counties, Cities and Burroughs, for the electing their several and respective *Quota's* and Number of Members to represent them in the high Court of the Kingdom, had been so many riotous and tumultuous Meetings; and those chosen and elected by them to be to be their Substitutes and Deputies, had been the illegal Creatures of a *Riot*, and could not have acted in the Names and Stead of those

that

that sent them, without being highly Criminal in the Sight and Account of the Law. Nor did the *Writ* only run in both their Names, and flow and proceed from them, and become impregnated with a creative and constitutive Power of giving Being to a Parliament, in the Virtue of that individual and entire Sovereignty lodged in the *Princeps* as well as in the *Prince*, as in the *one Politick Head of the Government*; but those who in persuance and execution of that *Writ* were chosen to be Members of this Parliament, came together, assembled and sat, to confer and consult with, and to give advice and aid to *Mary* as well as to *William*; and the Power and Trust which they received from their several and respective Electors, was to represent what came to be representable to the *Prince* and *Princeps* joynly, and to act and concur in, and to consent unto such Things as *Mary* as well as *William* were to have *Colloquium & Tractatum*, Conference and Transaction with them about. For upon the execution of the *Writ* for the Choice of those who were returned the Members of the present Parliament, the Trust that came to be conveyed, transferred, consigned, and committed unto them, was not to act singly and separately with *William*, but with *Mary* also. So that this being now become impossible by the Death of the late *Princeps*, the Trust that was lodged in those Gentlemen, by their respective Counties, Cities and Burroughs, is fully determined and expired, with reference to all the Ends and Purposes for which it was consigned and committed to them. And had the People (in order to the saving themselves repeated Trouble and renewed Expence) been willing to have chosen those that were to constitute and make up the Assembly at *Westminster*, to have been their Representatives for an Age, and had accordingly authorised, and empowered them to do and act in their Names during so long a time, it was more than the Electors were in a legal Capacity, or had a Right and Power to do; in that all the Authority they had for their Choice, Deputation and Authorization, of their Representatives, accruing and resulting unto them from the *Writ* of *William* and *Mary*, and from the Nature and Quality of it, as regulated and prescribed by the Law, they could not extend or enlarge either the Measure or the Duration of the Trust they were to convey to their Representatives beyond the Limits and Boundaries set them in the *Writ*, and that was to consult with, give advice unto, and to do and act in their Names, with *Mary* as well as with *William*; and consequently this

this Assembly became dissolved and disabled in Law from sitting and acting as a Parliament immediately upon the *Death* of the forementioned *Princes*: Seeing then and thereby both the End they were called for, and the Trust committed to them by the People, for the complying with and answering of that End, did not only cease and expire, but in that it became physically as well as legally Impracticable to pursue the End, or to execute the Trust any longer. I might farther add, That for the Assembly at *Westminster* to have continued to sit and act as a Parliament, after the Death of the late *Princess of Orange*, is both inconsistent with the Rules and Practices of all Parliaments, and directly repugnant to a known and standing *Maxim* in Law. For it hath ever been received as a Rule in Law, and the Course of Parliaments have been always correspondent thereunto; namely, That the Acts of every Parliament must relate unto, and receive their Denomination from the first Day of their Session, and by consequence it being impossible that the Acts made under the pretended Reign of *William* alone, should be adjusted to the first Day of the Session that was in the supposed Reign of *William* and *Mary*; it immediately follows, That the Parliament which sat then under *both*, cannot have a Right to sit now under *one*. Nor can the Acts made under the Reign of *William* alone, any more relate to the first Day of the Sessions which was in the Reign of *William* and *Mary*, than they do to the Sessions of Parliaments under King *Stephen* or King *John*. But this, and most other Things needful to the setting this Subject in its proper Light, having been briefly and yet fully done by the *Author of a Letter to a Friend in the Country*, I shall wave the adding of any more, either upon this Head, or in confirmation that the Parliament was by Law dissolved by the Death of the late *Princess of Orange*: And the rather in that what I have farther to say will be more pertinently offered, in answering the Objections brought by the Partizans of that Assembly. Only as I desire to mix my Thanks, with those of all true *English Men*, to that Author for the seasonable and useful Service he has done his Country; so I do pay him my own particular Acknowledgments, for the favour of having carried the *Lantern* before me, and helpt me by the means and benefit of his Light the better to discern my own way, and to avoid stumbling in these Paths that have not been much trodden.

There

There are but two Objections can be advanced in favour of this Assemblies continuing to be a Parliament, notwithstanding the Death of the late *Princes*, nor can either the Wit or the Malice of Man invent and produce more ; and therefore I shall represent them in all the fairest Colours of Beauty and Strength that they are capable of having put upon them ; and then I shall give those irresistible Answers to them, that Men must sacrifice Reason to Passion, and prefer Darkness to Light, that can have the Face to alledge them again in behalf of the *Westminster Junto's* remaining to be a Parliament. The first is, That though by the Act of Settlement there was a Donation made of the Crown to *William* and *Mary*, and the whole and compleat Sovereignty placed and settled Joynly in them both, as one Regal Head of the Kingdom ; yet by the same Act, *The entire and full exercise of the Royal Power and Government was only to be in, and to be executed by William, in the Names of them both.* And therefore that the issuing forth of the *Writ* by which this Parliament was called, and had a legal Existence and Being given unto it, being an Act of the executive Part and Power of the Government, and done by *William* alone in pursuance of that Right and Authority vested in him by the Act of Settlement, and he still surviving, that consequently this Parliament surviveth also, and will continue so to do, until he either dissolve it by an Exertion of his Sovereign Regal Authority, or until it come to be dissolved by his Death ; which when it comes, I do suppose the Gentlemen of the Club in St. Stephen's Chapel will not be so frantic as not to acknowledge it to be a *Demise*. Now to this Objection I shall take the Liberty and be at the Pains of returning three Answers, and all of them evidently Clear, and demonstratively Satisfactory. The first is, That it is not the bare having the Right of executing the Regal Power and Government, that enableth a Person to give Being to a Parliament ; but it is the whole and entire Sovereignty vested in such a Person, and then exerted in some executive Act, that can and doth give a legal Existence unto it. That is, every Act that is or can be constitutive of a Parliament, must have its Foundation, and flow and result from the whole Sovereignty, before the exercise and application of such an Act in the issuing out of *Writs* can in that way of Power that is merely executive, be capable of giving a Legality to what is done. And therefore the most Rightful King that is, and who hath both the whole and entire Sovereignty, and the legal Authority and Power of

of executing it fully and inherently judged and vested in him, may nevertheless command and do Things illegal and arbitrary ; if he extend his executive Power in commanding and doing those Things which by the Rules of the Constitution, and the Laws of the Land, do lie out of the Verge of his Royal and Sovereign Power. For every act that a Prince exertereth his Authority in and about, must first lie within the Circle and Precinct of his Sovereign and Legal Power, before his Exercise of his Authority in and concerning it, can be Lawful and Justifiable ; otherwise all Exercises of Executive Royal Power, though by the most legitimate and lawful King, are so far from being legal Acts, that they are Acts of force and violence. No Man will deny but that King *James* was a Lawful and Rightful King, and that he had both the entire Sovereignty and the executive Power of Government fully and legally vested in him ; and yet the Convention in their Act of *Donation* of the Crown to *William* and *Mary*, (and which Act stands confirmed by this Parliament) do not only declare that the Power to which he pretended of dispensing with the Laws, or the execution of the Laws, by Regal Authority, was illegal ; and that his issuing out a Commission for erecting the late Court of Commissioners for Ecclesiastical Causes, and all other Commissions and Courts of the like Nature, are illegal and pernicious : (Not to mention that large Roll of many Examples of his executive Power, which they do there declare to have been also illegal ;) but they make, assign, and lay them down, as the Grounds, Reasons and Motives, why they withdrew their Allegiance from him, and abdicated and renounced him. Now when the present Parliament was called, the Prince of Orange had no Sovereign Power, distinct and separate from the Sovereign Power that was vested in the Princess, but the entire Sovereignty was incorporated in them both Joyntly as one political Head. And therefore there being an Abatement by her Death of the Validity of those Writs by which this Parliament both received its Being, and was supported and upheld in it; it unavoidably followeth, That the Parliament became therupon actually dissolved, through the ceasing of the Legal Authority of the Writs, upon which its Existence depended. For her Sovereignty being once absolutely necessary to give Virtue, Vigour, and Authority to those Writs, and to make them good in Law, and operative to the Ends for which they were issued forth ; and that Sovereignty of hers being wholly departed the Writs, and they therupon in Law being become Nullities, it naturally and un-

controulably follows, that through the Nullity that by her Death hath overtaken those *Writs*, that which was once a Parliament upon their *Hypotheses* of Government, is also become cased, disabled and annulled, from remaining one any longer. For as the Author of the *Letter to a Friend in the Country* hath very well observed, It is not Sovereignty in *genere* that preserveth the Life, Power, and Authority of a Parliament, but it is the Sovereignty of the same individual Royal Person, that gave Validity and Efficacy to the *Writs* by which it was at first called. For otherwise, as a King never dyes, so no Parliament could ever be dissolved by the Death of any; nor could any Thing dissolve a Parliament, but his pronouncing it to be so that first called it. By our Law the King is immortal, he never dyeth, the King liveth over, i.e. the Regal Dignity and Power do always subsist, though there be a Change of the Persons in whom it was inherent, 1 Com. 177. 11 Rep. 7. 21 Ed. 4 &c. so that according to our Law there is never a Cessation of the Sovereignty, but only a Cessation of this or that individual Subject or Person, in whom while he survived it was incorporated and inherent. So that upon the whole, unless you can make *William alone* to be both *William and Mary*, and can render one single individual Person to be *two*, the Sovereign that we have now is not the same identical Sovereign that we had before the *Death of the late Prince*. And by consequence this Parliament shall in Law be actually dissolved; seeing its whole Being and Existence depended upon the Life of the Sovereign we had then, and that preclusively from all legal Capacity and Possibility of borrowing a Duration and Continuance in its Existence from the Life of any other, though of one then vested with the Sovereignty, if he was not sole and alone Sovereign. But to advance to my second Answer to the forementioned Objection; I do say, that at some Times, and upon some Occasions, the executive Power of the Government hath been by Acts of Parliament transferred unto, and settled upon those, who had no Share or Portion in the Sovereignty and Regal Dignity. I will not enquire whether it was done either wisely or legally, it being enough for my purpose that it has been done, and that oftner than once. Of which the first Instance and Example I will assign is that of the 10th Year of *Rich. 2.* and the 20th Year of his Age: For a Parliament being then hold, and having found that during his Minority there had, through the ill Council and Advice of some Persons that were much in His Favour

Favour and Confidence, been many and great Miscarriages in the Government; they thereupon prepared a Bill, which upon their obtaining the Royal Assent unto it, became an Act or Statute, wherein they awarded a Commission to Twelve several Peers, and others of great Wisdom and Fidelity, giving them Power and Authority in all Things concerning the King's Household, Courts of Justice, Revenue, and every thing else that concerned the good of the Realm, to put in execution and finally determine, for the Honour of the King, Relief of the People, and the better Government of the Peace and Laws of the Realm, and this Commission to remain in force for a Year, at the end whereof the King would be of Age. Now I suppose that no Man will have the Folly, as well as the Impudence, to say that the Sovereign and Regal Power was vested and inherent in those Commissioners, and yet they were possessed of, and had thereby given unto them, the whole executive Power of the Government. So that how much soever this was, or, at least, looks like a Derogation of the Crown, an Usurpation upon the Royal Power, and a Disinheritance of the King; yet we find it hath been awarded, authorised, and enacted by a Parliament, which demonstratively sheweth, That the executive Power of the Government has not only been thought separable, but has been actually separated from the Sovereignty and Regal Dignity. And consequently that the Prince of Orange's having the full and the sole Exercises of the Regal Power given unto him by the Act of Settlement, and his having, in the virtue thereof issued out the Writs for the calling of this Parliament, doth not entitle it to a Continuance, or a Right to sit after the Death of the late Prince; there being now a Change and Alteration in the Sovereignty, of what it was at the time of calling the said Parliament, and before the Death of Mary. Forasmuch as the Regal Dignity, which was then incorporated in two natural Persons, though only one political, is now become vested in one single Individual one. But the second Instance which I shall mention, is yet both more plain and more directly home to the Matter and Subject which I am upon; and that is the Statute of the 17 Car. 1. for the calling and holding Triennial Parliaments, in which it was ordained and enacted, *That if the King did not by such a time as was above expressed, issue out his Writs for the calling and assembling of a Parliament, that then upon such a Failure of the King's, in the executive Part of the Government, the Lord Chancellor or Lord Keeper for the time being, and so onwards to others, till in case of the Neglect of all those whom they were mentioned, and so forth.*

both empower and require to do it, they give Authority to the Freeholders themselves to meet at or before such a day, and to choose and elect Members. Now it will not be denied; but that as the Right of calling Parliaments is one of the most noble, inherent, and essential Prorogatives of the Crown; so the exertion of this Sovereign Royal Power in the sending forth of *Writs* for the actual chusing and assembling of one, is one of the most eminent and illustrious Acts and Exercises of the executive Power of Government. And here by a Statute introductory of a new Law, which had no Foundation in the Common Law, and which was besides very derogatory to the Crown, was there a Power of issuing our *Writs* for the calling and assembling of a Parliament, transferred unto, and devolved upon such, as had nothing of the Sovereignty and Regal Dignity. Now if through the King's failing to call a Parliament, within the time which was prefixed and limited by that Act, the Lord Chancellor, or any of those that were empowered to call it, upon the King's neglect to do it, should have issued out *Writs* in pursuance of the said Act for the calling and assembling of one; all which in fact might very well have been, seeing we are to suppose nothing in Statutes to have been idle and impertinent: Yet any such Parliament, and so called, would have been as much and as really dissolved by the Death of the King, as if the *Writs* for the calling of it had been issued out by himself, and by his own Personal Authority and Command. For through their being called by an Exertion of the King's Regal and Sovereign Power, though applied and exercised by one distinct from him; and through the *Writs* being issued forth in his Name, whosoever were the Issuers of them; and through the Members being chosen in the Virtue and Persuance of those *Writs*; and through their coming together encrusted by the Electors to confer with the King about the ~~quædam~~ *ordines Regni*; such a Parliament upon the Death of the King, in whose Name and Time it was chosen, could not escape the being dissolved: So that nothing can be more alien to the Matter under debate, as well as weak in it self, then to pretend because the Prince of Orange is yet Living, in whom the Exercise of the Government was at the time of the issuing forth of those *Writs* by which this Parliament was called, that therefore the Parliament it self remains still in Being, and is in Law indissolved: Seeing in this Case it is not in whom the Right and Power resided, to put forth, exercise, and apply the Sovereignty, that the Duration, Continuance,

nuancé, and Existence of a Parliament does bear and depend; but in whom the full and entire Sovereignty and Regal Dignity was then vested and settled preclusive of all others. And I am sure that no Man, who stands not a Candidate for a Preferment in *Bedlam*, will say, That the whole and full Sovereignty was then in *William*, to the barring and excluding of *Mary*. But to add a *third* Answer to the foregoing Objection: I do say, That the very placing of the Exercise of the Royal Power in the *Prince of Orange*, in the manner it was done by the *Convention*, and as it stands expressed in the *Act of Settlement*, and is confirmed by this Parliament, does beyond all contradiction prove that this Parliament was, is, and became dissolved by the *Death* of the late *Princess of Orange*. For whereas the Exercise of the Regal Power did not become limited, and confined unto, nor settled solely and fully in the *Prince of Orange*, through his being vested in the Sovereignty; because on that Foot, Foundation and Bottom, the whole Exercise and Administration of the executive Part of the Government would have been no less in *Mary* than it was in *William*: Seeing the Sovereignty, Crown, and Royal Dignity, being incorporated Joynly in both as one political Ruler, it was as much in her as it was in him, and whatsover resulted from it to the *one*, should have accrued from it to the *other*. But he came to be possessed of the Exercise of the Royal Power by a superadded Gift, that w^s different and contradistinct from that by which he stood vested in, and came to inherit the Crown. So that from hence we are furnished with a clear and convincing Argument why this Parliament was in Law dissolved upon the *Death* of the late *Princess*; namely, That the only personal Right which he then had to the Administration, accrued to him by a Deputation, and was conveyed to him in the way, manner, and nature of a Warrant of Attorney; which being expired and determined by the Death of the aforesaid *Princess*, all that Virtue is by consequence departed from the *Writs* by which this Parliament was both brought into and kept in Existence. For I do suppose that though the *Convention* thought it safe as well as feasible to settle the Crown and Royal Dignity in *Williams* and *Mary* Joynly, yet they could not be un sensible of what danger it would have been to place the Exercise of the Regal Power in more than one Person; because the Administration of the Government would not only have thereby been embarrassed; but indeed might have been rendered impracticable, through the Differences which might

have arisen in and about the Exercise of the executive Power, should two Persons have been equally vested in it. And as *Mary's Title in Tayle* to the Crown, on the *Hypotheses* and Principles upon which the *Conventionists* went, would not allow them to barr her from the Sovereignty ; so the Pride and Haughtiness of *William* would never have suffered him to submit to the *Princess* being vested with the sole and full Exercise of the Regal Power, nor would have given him the Advantage he has had of impoverishing us, and of enriching the *Dutch*. And the weak unthinking People of *England*, who truly loved and esteemeed the *Princess*, thought themselves happy, and her as great as they could make her, in the having her called their Liege Lady, Sovereign and Queen ; but they had not wit enough to consider, That all this was but Pageantry, and she in the mean time a Queen of Clouts, while the executive Power was lodged solely in him, and which he put forth imperiously enough towards her, as well as arbitrarily towards the People. And let me add, That by and since the *Death* of the late *Princess*, *William* has the Exercise of the Royal Power by another Claim and Title than he had it before. For whereas before and antecedently to the *Death* of the *Princess*, he had no otherwise the sole Right to it, than by a Donation contradistinct from that by which he had the Crown, and Regal Dignity ; he now possesseth it as the natural and immediate Privilege, Prerogative and Right, accruing and resulting from his Sovereignty and Royal Dignity. So that by the Extinction of that executive Power, or if you please through the Cessation of that Title and Claim, by which he forme ly possessed the executive Power ; this Parliament which received its Being by an Exertion of his executive Power on the foot which he then had it, and which neither did nor could in Law subsist a Moment, but in the Virtue of that Power as he was then vested in, and exercised it, must have also ceased and die.l with it. For having then the Exercise of the Regal Power, preclusive of the *Princess* merely in the way of a *Deputation*, it immediately follows, That upon the Expiration of it, every Thing which neither had nor could receive from it a permanency of Existence before it did expire, but which hourly subsisted by and upon the actual Influence of the *Deputation*, as the Being and Continueance of this Parliament did, must of necessity have ceased and expired with and upon the Decay and Determination of that *Deputation*.

So that having said enough in answer to this first Objection, alledged in opposition to this Parliaments being dissolved by the Death of the late Princeſſ ; I shall now proceed to the ſecond, and examine it with all the ſpeed and brevity I can. The Objection then is this; namely, That by the *Death* of the late Princeſſ the Sovereignty that was before lodged in *William* and *Mary* Joynly, is now become ſolely and entirely vested in *William* alone, by Right of *Survivorſhip* ; and therefore that through his being poſſeſſed as Survivor of the whole Sovereignty, that at firſt gave Life and Efficacy to thoſe *Writs* by which this preſent Parliament was caſted, they confequently do and muſt retain the ſame Virtue, Power, and Force which was in them, and which they had antecedently to the *Death of Mary*. In reply to which, I do in the firſt place ſay, That the *Prince of Orange* i[n]ſtead of acquiring by the *Death of the late Princeſſ* any ſole, ſingle or individual Interēt in the Sovereign Power, and Royal Dignity, he hath actually loſt and forfeited, and is become in Law deprived and ouited of what he had. For admitting all the illegal, diſloyal, and treasonable Proceedings of the *Convention*, and of this other *Revolutionary Parliament against the King*, and the *Prince of Wales*, to have been not only lawful, juſt and legal, but to have been also neceſſary and expedient, upon thoſe Reasons and Motives laid down in the *Declaration of the Lords Spiritual, and Temporal, and Commons assembled at Westminſter*, and by them preſented to *William and Mary* in February, 1689. Yet both that Declaration, and the *Act of Settlement*, are now in Law, and by all the Fundamental Rules of the *English Government and Monarchy*, perfectly extinguiſhed, become void and annulled. For admitting that there might be not only Reasons for depoſing the King, but that he had of himſelf abdiſed the Government, and that as thereby the Throne was become vacan[t], ſo that there was thereupon a Right and Power accruing to them to make a Donation of the Crown and Regal Dignity to *William*, in joyn Partnerſhip with *Mary*, who was in their order of Reckoning next immediate and lineal Heir: Yet all the ſaid *William* did or could obtain hereby is now wholly loſt and departed from him, and the whole Sovereignty is by Law devoled upon, and become vested in the *Princeſſ of Denmark*, by the *Death* of her Sister. Neither could thoſe two Asſemblyes, or any other, by what Names ſoever they ſhould ſtyle themſelves, barr the ſaid *Princeſſ of Denmark* from her lineal and hereditary Right, ſo long and while they had no way incapacitated and diſabled.

disabled her self to inherit ; nor had any Causes or Reasons alledged or produced against her for putting her by the Ascent to the Throne in the Order and Rank of Succession, which God, Nature, and the Laws of the Realm, had chalked out, fixed and determined. Nor could the *Princess of Denmark* depart from, and surrender her Legal and Rightful Place and Room of succeeding to the Crown, had she been never so inclinable and willing to have done it ; seeing it comes to her by the *Constitution*, and by the Common and Statute Laws, as a Right merely to possess and enjoy, but not to transfer and alienate. For the Sovereignty and Regal Dignity descend not upon any King or Queen as an *Estate* or *Property*, which they may at pleasure part with, resign, or make away to another ; but it comes to them as a *Trust* of which they are indeseasably Tenants for Life, and the constituted and limited Guardians for their next lineal and legal Heirs or Successors. So that upon the Principles of all in the two Revolutionary Parliaments, that are not downright Republicans, but who retain a Love and Zeal for Monarchy, and the old *English Constitution*, all that accrued to *William* by the Death of the late *Princess*, is that he is now become a Robber, an Usurper over, and a Traitor against the *Princess of Denmark*, as he was all those before in reference to the King ; and that under the highest Aggravations of Ingratitude, Treachery, and Unnaturalness, that could possibly attend such Crimes. Nor is he upon the *Hypotheses* of most who promoted and came into the Revolution, any other, since the Death of the late *Princess*, than a King *de Facto*, which being interpreted into *English* is no less nor better than an *Usurper* ; while in the mean time, by their own Principles, the *Jus* and Right is become settled and vested in the *Princess of Denmark*. And they who are not direct *Commonwealths* Men, if they will not pay a Loyalty, Duty, and Obedience to King *James*, who is indeed the only Lawful and Rightful King of these Realms, they ought, if they have any Honour, Justice or Conscience, to yield them to her Royal Highness *Princess Ann*. Nor do I believe any Man so void of Sense, as to talk of *William's* continuing since the Death of his Wife, to possess the Sovereignty by the *Curtesy of England*, which entitlēth a *Husband* in some Cases to enjoy his *Wife's Estate* for his Life after her decease : Seeing as the *Crown*, *Throne*, and *Sovereignty of England*, are both in themselves, and descend to those that inherit them, as a *Depositum* and *Trust*, for the *Peace*, *Safety*, and *Prosperity* of the Kingdom, and not as an *Estate* either
real

real or personal. So the Preclusion of King Philip of Spain on the Death of his Wife Queen *Mary*, from all Right, Claim, and Pretence, to the Regal Dignity and Crown, shews the Vanity and Ridiculousness of such a Plea and Allegation, should any have the Folly and Impudence to start and urge them in Favour and Justification of *William's* continuing to Exercise the Sovereignty. But then I add in the second Place, That allowing not only that *William* is *Survivor* to the late *Princeſſ*, which these Nations find by daily and woful Experience to be too true, but admitting also that through his *Survivorſhip* the whole Regal Dignity which was before lodged with him, and his Wife joynly, is now come to be vested in him alone; yet this will signify nothing in favour of the present Assemblies at *Westminster* continuing to be a legal Parliament, seeing as that they cannot pretend now to sit by any other Claim, Title or Right, than that by which they were at first called, chosen, and came together; so it being made impossible by the Death of the late *Princeſſ*, in whose Name and by whose Sovereign Authority they were elected, entrusted and assembled, as well as in the Name and by the Authority of the *Prince*, that they should continue to sit by the same Claim and Title as they did at first; it therefore followeth, That his *Survivorſhip* neither doth nor can advantage them any Thing in this Matter, because it can neither give life to that which is dead, nor revive that which irrecoverably is extinguished. 'Tis true he may, as *Survivor*, by new *Writs* give being to another Parliament, but he cannot preserve and support this in its legal Existence, by reason of the impossibility of continuing that in those *Writs* which is finally and irrecoverably departed from them; namely, the actual Sovereignty of the late *Princeſſ*. And according both to all our Laws, and all the Maxims of Reason and good Sense, for a Parliament to change its Claim and Title of sitting, is to acknowledge some where or other a *Demise* in the Sovereigns that constituted it. Yea, the very mentioning the *Prince of Orange's Survivorſhip*, is an Acknowledgement both that there was once a Sovereignty in the Person of *Mary*; and that this Sovereignty which was once there is now departed thence; which importing the whole that the Law intends by a *Demise*, the Parliament that then was (if we will either speak or act consistently with Law or with good Sense) must thereupon be held, taken, and acknowledged, to be dissolved. For if it was not by a legal Authority, solely, wholly, and exclusively of all others, Resident in

Prince of Orange, that they met, sat, and acted at first; then they cannot now by his coming as *Survivor* to be vested in the whole and sole Regal Dignity, justify their remaining as a Parliament; nor vindicate themselves from being *Usurpers* over the People, in their continuing to sit and act. And as they can have no more, nor other Power now, nor derive it from any other Persons, or any other way, than they had and derived it from the first Moment of their being elected and assembled together; So that being by, and since the *Death* of the *late Princess*, become even physically impossible, it is most arbitrary and illegal in them to continue to sit, and to act upon that Bottom, or any other that they vainly fancy themselves to be settled upon. For it being in the Virtue, Force, and Authority of the *Writs*, as they were at first issued out, and according to the Tenor and Importance of the Words in which they were at first written, and made authentick and legal, that this Parliament came into Being, and stood authorized to sit and act; so the very mention of *Survivorship* in Regal Power makes it as plain and certain as any *Problem* in *Euclid* is, That there is no possibility of either answering, corresponding, or complying with the Words and Tenor of the *Writs*, or of subsisting and being upheld by the Identical Sovereignty, that infused Virtue and Efficacy, and stamp'd Power and Authority upon them; and by consequence it immediately follows, that since the *Princess's Death*, this neither was, could be, nor is a Parliament.

Having therefore proved this Parliament to be in Law dissolved, beyond the possibility as well as suspicion of having any just and reasonable Answer made and returned to what I have said; I cannot in duty to my Country and Posterity forbear adding something of and concerning the Criminalness of those Persons in both Houses, who since the Death of the *late Princess* have continued to sit and act under the Name and Seal, and with the pretended Power and Authority of a Parliament, and to imprison the Persons, and to dispose of the Properties of the Subject and Free-born People of *England*. And I am not ignorant how that besides the Hazards I shall thereby expose myself unto, (unless I get to the other side of the great Ditch) I shall likewise be esteemed guilty of Rudeness, as well as of ill Breeding, in bestowing upon them the Titles and Appellations, and in treating them, in the manner that they deserve. And therefore whatsoever Names or *Epithets* I may unavoidably be obliged to dignify them with, as they claim and challenge the

the being a Parliament, and thereupon usurp an Authority of invading and breaking in upon the Liberties, and of alienating, transferring, and giving away the Estates of the People, and that to a degree and measure unprecedented in all former Ages, and which no lawful Parliament ever ventured upon, or thought consistent with the Duty that they owed to those whom they represented, and by whom they were entrusted to act for their Safety and Advantage, and not for their Impoverishment, Enslavement and Ruin; yet neither will I forget what becomes my own Character, nor what is due to them answerable to their several and respective Conditions and Qualities, (abstracting only from their being a Parliament) and much less will I borrow any of that undecent, unclean, and ribaldry Language to give them, which was not without demerit th^e own upon the *Rump*, when the lampooning of it was for a great while made the Sport and Divertisement of the Kingdom. For the woff terms I will allow my self to use shall be to call a *Spade a Spade*, and to fasten upon them the Characters and Titles which Law and Reason instruct and authorise me to give them, and which our *English Dialect* enables me to do; and which I am sure ought in Justice to be so far from being held and accounted Scandalous, that it falls below being *piquant*, and keeps within the Limits and Precincts of modesty. The fist Thing then which they are hereby become guilty of, is their having rendered the continuance of the Session of all Parliaments for the future uncertain and arbitrary. For by their destroying all the legal Security we have of defining and determining the period of a Parliaments Right of remaining to sit and act, they have done what they can to make the Session of any Parliament perpetual, at least arbitrary, unless it come to be turned out of the House by Violence and armed Force, as Oliver 1653. drove away the *Rump*. For the *tenor* of the *Writ* by which a Parliament is called, being all the legal Security we have, both for the Declaration of the use and end it is called for, and for the giving Power, Strength, and Authority for its whole legal Existence; it undeniably follows, That whensoever it goes beyond the Boundaries and Confinements of that *Writ*, that from thence forward the time of their sitting is made arbitrary, and put out of the Power of the Law to determine. And a Parliament being equally if not more dissolved by a *Demise* in the Sovereign, by whose Regal Power it was raised, than it is by any King's pronouncing it dissolved in the Virtue of his Sovereign executive

Power;

Power ; it naturally follows, That this Assembly may not only as well, but better refuse to dissolve upon *William's* pronouncing and declaring them dissolved, than it hath withstood the being dissolved by the *Death and Demise of Mary*. So that by the President of these Mens continuing to sit, it is put out of the Power of the Prince (unless backed by force) as well as out of the Power of the Law, to dissolve a Parliament. And it is but for *Five hundred People* to get in the customary and usual way into *St. Stephen's Chapel*, and they are then as safe as in an enchanted Castle ; and may there sit, act and reign, as long as they please, and that with a Despoticalnes becoming the Grand Seigniors of the Republick. And having superceded the Law, and manumitted themselves from the Authority of it ; it is but for them to bribe the *Mob*, or wheedle the soft-headed People of the City to come down to *Westminster* to be their Guard, and then they will sit encircled and fenced against the military Power of the King, as well as against his Sovereign, Regal, and Executive Authority. And seeing the present Assembly has thought fit to continue and act as a Parliament, in contempt and defiance of the Law, and in a direct transgression of all the Limits and Boundaries that it had set them, and have put themselves out of the reach and power of coming ever to be dissolved by Law ; I have only this Advice to give them, That they would gain *Capt. Tom*, and his *Legions*, to befriend and protect them, and then the great *Hero* of the Age will find it more hazardous, though in the Head of his invincible *Dutch*, to attack them, or to interrupt, disturb, and determine their sitting, than ever *Don Quixot* found it to combat the Wind-mills. But waving being further pleasant upon so melancholy a *Theme* and *Subject* as this is ; I will only add that by the Example which the present *Jando* which stiles it self a Parliament has made, for all those that shall be assembled hereafter, both the whole Constitution, and all the Laws of *England*, that relate to the calling, regulating, and determining the Sittings of Parliaments, are plainly subverted and overthrown ; which may be of that fatal consequence to posterity, as no Words can serve fully to express. The next Crime therefore whereof they were accusable for continuing to sit and act as a Parliament, since and notwithstanding the *Death* of the *late Princess*, is, That they have thereby broken and falsified all that Trust which was placed and reposed in them by their Country. Now a *Trust* is, or at least should be, one of the most sacred Things of the World ;

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World; because not only much of all the Interest that is among Men depends upon it, but because it is the Basis of every Society, and the Foundation of the Fabric of all Governments, be the Kind and Species of them what it will. And by how much the Trust is the more extensive and great, by so much it is in Justice as well as Honour to be the more punctually observed and perfised; and the breach of a Trust does not only imply and include Falsehood and Infidelity in him that violateth it, but it imports and involves the blackest Treachery towards those that had reposed their Confidence in them. Now the Members of the House of Commons are not only to represent those that elect them, and Millions more, but they become constituted and formal Deputies, with whom the whole People of England deposite, and lodge all their Concerns. For at first, and during a long time, all the Free-men of England had a Right in their respective Shires, Cities, and Burroughs, of chusing those that were to represent them in Parliament, till in the time of Hen. 6. it came to be ordained, That because the Election of Knights had been with great Outrages, and excessive Number of People, of which most were of no Value, and yet pretended a Voice equivalent to worthy Knights and Esquires; whereby many Riots and Manslaughters were, and were likely to be, that therefore from thence forward the Knights of Shires should be chosen by People dwelling in the Counties, every one having Lands or Tenements of 40 s. Value per Annum. But though only those of that yearly Value are now allowed to be capable of chusing Knights of Shires, yet the Concerns of all others, as well as those, are put into their hands. Nor are they the small and trifling Concerns of the Kingdom, that come to be configned unto, and trusted with the Members of the House of Commons; but they are those mighty and momentuous ones which may affect their Liberties and Lives, as they always will and do their Fortunes and their Estates. Which most of the Electors in England in all likelihood do little think of, as appeareth by the moral and intellectual Qualities of many of those whom they elect and return. Nor do most of those that chuse Members to Parliament act so much under the Conduct, Influence and Sway, of their own true Interest, as upon the Motives either of Party, Faction, and Bigotry; or of Entertainments, Treats, and petty Recompences. Nevertheless, whosoever they are that come to be chosen, they are immediately constituted the Trustees of the People, and accordingly have their Names inserted in Indentures annexed to the Writ,

importing the Power given unto, and the Trust reposed in them by the Free-holders or Burgesses, pursuant and answerable to the tenor of the *Writ*, which both gave Authority for making the Election, and expressed the Duty and Power of those that should be elected. Now, how treacherously as well as dishonourably have the Members of this Meeting, which continue to sit and act as a Parliament, departed from, and openly violated, all that Confidence and Trust which were reposed in them by those that chose them. For whereas the People only intrusted and impowered them to represent unto, and to do with *William* and *Mary*, and merely to consent to such Things as should be agreed upon and ordained in the Parliament of *William* and *Mary*, and to no other; they, by a most reproachful Breach, both of their own *Faith* to the People, and of the *Trust* which the People devolved upon and reposed in them, have continued to consent with *William* alone. And though by the Death of the late *Princes*, all the Power, Authority and Trust, conveyed unto, and lodged with them by the People, did fully and wholly cease and expire; yet they with an unparalleled Infidelity go on to sit and act in the Names, and as the *Signers*, of the People of *England*; as if the Authority committed to them by the *Signers* were still good and authentick, and in its full vigour and force. And I am loath to say how much many of them have hereby disabled and incapacitated themselves from being trusted again, or what Opinion the thinking part of Mankind will have of the Free-holders and Burgesses of *England*, if after they have been so grossly, and in a matter of this weight and moment, deceived by these Men once, they shall be so ridiculously and contemptibly weak, as ever to place Confidence, Trust and Power, in the hands of many of them again. There are two other Crimes vastly more heinous than those I have mentioned, whereof they are become notoriously and scandalously Guilty, in their continuing to sit and act as a Parliament, since and after they became in Law dissolved by the Death of the *Prince* of *Orange*. But they being of so high a Nature, as may affect their Estates, Honours, Lives, and their Posterity, unless the Nation has more Mercy, and Forgiveness than they have had Wisdom; I shall therefore do little more than Name them, i.e. if it should I proceed to speak of them in a Language either suitable to the Nature of the Offences, or in proportion to my own and every honest Man's Resentment and Indignation, I might not be able to keep within the Bounds of temper and

and moderation; and those Measures of deference to them as they are Gentlemen, which I will always confine my self unto. The Crimes I mean are the Exercises of an usurped Power, both in disposing away and alienating the Properties and Estates of the Subjects, and in preparing and concurring unto Bills, relating to many other Things as well as Money, which is the executing the whole Power that belongs to a legal Parliament in the order and degree which appertains to the House of Commons in the matter of Legislation. And were another to give the Character of those Transgressions, Robbery and Treason would be the most manifest terms he would express and describe them in. And undoubtedly he would endeavour to raise and enhance the guilt of them, by shewing how this Assembly doth both Plunder us, and arbitrarily impose Laws upon us, by virtue of a pretended Warrant under our own hands ; whereas the *Indemnity* by which we vested them with a Power over our Persons and Fortunes, is out of date and expired, and become cancelled and null in Law since the 28th. of December last. But so much lying at hand with every Man of common and ordinary Sense to be said on these Heads, I will say no more upon them ; but will only add, That what I have already laid before you on this Subject, though spoken *de Parlamento, of the Parliament* ; yet it is not intended by me, nor ought to be interpreted by others, as if it were meant *de singulis Membriis Parlamenti, of every Member of the Parliament*. For I do both believe and know, That ther'd are a great many as worthy and deserving Gentlemen within those Walls, as any in the Kingdom are ; and that they continue not to sit there from the Belief that this is a Parliament, but that they may prevent your *Whartons, Montagues, Smiths, &c.* from ruining the Nation, who would be sure to remain to sit and act in the Quality of a Parliament, should others withdraw : A President whereof we had heretofore in that *Rump*, which continued to sit as a Parliament, after they had drove away Four parts of Five of their Members. And these honourable and worthy Gentlemen, whose Names I am obliged to conceal, have not only sufficiently attoned for their Fault, in sitting and acting since the *Death of the late Princeps*, but they have merited the Thanks of the Nation by their opposing and defeating the Design of an Universal Excise, which your *Montagues, Smiths, and many others*, had projected and resolved to impose upon the Kingdom ; which could they have effected, as they had promised the Gentleman at *Kensington* to do,

we should in a little time have been made greater Slaves than the *Turks* are, and *Williams* had been put into a Condition of ruling as despotically as the *Grand Seignior* does. But how strangely are *English Men* degenerated since they got a *Dread King*, that there should be so many Advocates for that now, that our Subjection to it could not have been avoided, without much Art, Industry and Courage, in a few generous Patriots, which but to have mentioned within these Walls some Reigns ago, would have drawn both a Punishment and Disgrace upon him that did it. For when Sir *Dudley Carleton*, who was then Secretary of State, did but once Name it in that House, though to no ill Intent, he was not only called to the Bar, but hardly escaped being sent Prisoner to the Tower. But since Members have learned to sell their Honours and Consciences, as well as their Votes, and thereby their Country, for Places and Pensions; let no man marvail, That what was heretofore the *Bugbear* of all in a House of Commons, should now become the *Idol* of too many there.

All that doth remain to be represented to you in relation to the present Subject, is, in what Esteem and Account the *Acts* of this pretended Parliament ought to be with the People. And suffer me upon this Occasion to tell you, That no Man alive has a greater Respect for a legal Parliament, called by the Authority of a Rightful and Lawful King, and answering the Ends for which they were originally instituted, than I have. But for every Assembly that hath called it self a Parliament, and which in some unhappy times have been generally owned as such, I do confess to you, that I have not the same Veneration. For when I do read how many Parliaments have preferred Usurpers before the Rightful Heirs, and that never any Person invaded the Throne, though never so traiterously and unjustly, but that he always found a Parliament to recognise and support him; I cannot have that Esteem for every Convocation of Men that goes by that honourable Name, as some have; who will Worship the Tree on which their Father was hanged, if it be putt shaped into the Image and get the Title of a *Madona*. *Richard* the Third, and *Oliver Cromwell*, had Parliaments, who as much adored them, and as readily gave Subsidies and Taxes for answering the Occasions of these Usurpers, as ever Queen *Elizabeth*, or *Edward* the Sixth had. Nor can I so far conquer my Understanding, or get the Victory over my Conscience, as to have a reverend Opinion of those Parliaments

in Henry the Eighth's time: Whereof one enacted, *That Proclama-*
tions should be equivalent to Laws; and another ordained, *That he*
might by his last Will and Testament appoint whom he pleased to be his
Successor. How many Parliaments might be named that have been
the Tools of a haughty Prince's Tyranny, and the Panders of a
lascivious King's Lusts; who have been of a Complexion to wor-
ship the Devil, that he might do them no hurt, with the same rea-
diness that they do God Almighty, who bestowed upon them all
that is good. Nor am I willing to omit mentioning, how those
few Men whom Oliver Cromwel called together by his private Let-
ters, without any previous Choice of them by the Nation, had not
only the Impudence to call themselves a Parliament; but that
even a great many People who laid claim to more of Religion
than they had right to do to good Sense, were ready to fall down,
and worship them as such. And permit me here to tell you one
Thing in reference to that Assembly which hath been commonly
stiled Oliver's little Parliament; which though it may seem a Di-
gression from the present Subject, yet it will not be unseasonable
for me to relate, nor unfit for you to know: Namely, That
whereas Oliver pretended to call them together towards settling
the Nation upon the Motive and Merit of their Piety; yet the
true Reason of it was, the Jealousy he had least they should sup-
plant him in the Power he had assumed, which they stood the
better qualified for effecting, by means both of the Reputation
they had among the Partizans against Kingship, and of the In-
terest they had in many of his own Army. And therefore Oliver
knowing the Temper and Bigotry of the Men, and that if they
came together and were allowed to meddle with Affairs of State,
and the general Concerns of the Kingdom; how they would by
their wild and extravagant Proceedings, not only lose all the Esteem
they had acquired in their private Stations, but render themselves
the Scorn and Contempt of Mankind, and thereby lose all Capa-
city of undermining him in his Seat, or of doing him afterwards
any hurt; upon these Motives he called them together, and upon
no other, whatsoever he pretended. All which not only came to
pass as he had projected and foresaw, but even while they were
together, they were through the Folly and Frantickness of their
Actions, the Derision of the few wise Men that were among
themselves. Of which I shall recount one pleasant Instance; viz.
That being endeavouring with great Zeal and Earnestness to en-
gross

gross and monopolize all Power and Places into their own hands, and into the hands of those they stiled Saints, is that such only had right to govern the Earth, all Dominion being founded in Grace ; they were baffled and bantered out of their Design by a cunning Man's standing up in the House, and telling them that it was true, the Saints deserved all Things, but that publick Employment was so great a Drudgery in it self, and so strong a temptation to Sin, that it would be unjust to condemn the Godly to it ; and that the best Service they could do for the Commonwealth, was in a pious Retirement to intercede for it at the Throne of Grace. But to return to what I am upon ; no Man that is not a perfect Stranger to England can be ignorant of the three Essential Properties belonging to a Parliament, namely, *Fairness of Elections, Fulness of Members, and Freedom of Speech* ; and that several Parliaments have laboured under Deficiencies of one or another of them. And there are Instances where one Parliament hath declared a former Parliament void and null in it self, because of some Irregularity either in their being chosen, or in their sitting, though called by a Lawful and Rightful Prince. Thus the Parliament of the first of Hen. 4. declared that of the 21 Ricb. 2. to have been a void Parliament, *Roll. 21. 22.* Nay, Sir Edward Cook, whom all must acknowledge to have been a Champion for Parliaments, especially for a House of Commons, yet he declareth that Parliaments have been often utterly misled and deceived, and that in Cases of the greatest moment. And had we not overthrown the legal Existence of the present pretended Parliament upon other Reasons and Grounds than those of Illegaliities in the manner of Election of Members, and in their Actings when assembled, we might also upon those Motives strangely shake the legal Being of it. And to name but one which lately fell out since the *Death* of the late *Princess* in this Assembly, which persevereth to call it self by that Name ; namely, That when a Question was started by the *Earl of Nottingham* in the House of Lords, whether since the *Demise of Mary* this was a Parliament, or not ? How it was replied by the *Earl of P.* That it was not a Question fit to be mentioned, and less fit to be debated. Which besides it importing in it a debarring a Liberty of Speech, without which a Parliament cannot be a legal Parliament, because not a free Parliament : It likewise imported in it, That though this Parliament was in Law dissolved, yet it must still sit, and no Man be allowed to question the

the Lawfulness of its doing so, because of Reasons of State. And so the whole Constitution, and all the Laws of *England*, must be sacrificed to the Lunatick and Disloyal Bigotry of keeping King *James* out of his Dominions, and from reascending his Throne. For that is the whole Paraphrase of the Text, of the Necessity of its continuing to sit in order to raise Money for carrying on a vigorous War against *France*. But it being dissolved by the Death of the late *Princeps*, before any Bills had passed for the granting of Money, it will argue great Sottishness as well as Tameness in the People of *England*, if this Government be not disappointed in that end of their keeping it on foot. For those Papers which are published under the Stile of *Acts*, do oblige no Man in duty to pay, nor can they authorise any Officer in case of Refusal to distrain. They in St. *Stephen's Chapel* have no more legal Power to dispose of the Property of the Subjects, than the Committee of Officers have who sit in the Guard-house by *Whitehall*. And all those Acts of Assessments which they have emitted, are but so many Denunciations of War against the People, and proclaiming them obnoxious to arbitrary Executions upon their Estates, real and personal. Such who are so pusillanimous as to chuse to be robbed may submit to it; but as no Warrants can legitimate the doing of it; so all Men who have Courage to resist, they have the Authority of all the Laws of *England* for the doing of it. And as they have no Right of sitting as a legal Court, so they cannot be said to take away Mens Goods by any better Name than that of a Company of *Banditti*; nor do People use to be so silly as to part with any Thing to such, but when they are too strong to be withheld. And I think it was never yet known, That *Five hundred* were powerful enough to rob and plunder above *Five millions* of Persons. What a Noise a few Years ago did the Erection of a Court of Commissioners for Ecclesiastical Causes beget in the Nation, and how strenuously was it improved for the driving the King from his Throne and Kingdom? And do we now sit silent under a Company of Men erecting themselves into a Court of *Legislation*, to vote away near the Moiety of every Man's Estate, whether he be Laick or Ecclesiastick. Shall we, who were so busy scandalously to Censure, and traiterously to endeavour to redress the few and little Miscarriages of our ancient and legal Government, suffer with a sottish Tameness those far more, and vastly greater, of an usurped, unlawful, and tyrannous one? This hath not been.

the Practice of any People or Age, till of ours, and of us. That of Tacitus being at all times heretofore an infallible Maxim, namely, That *Nova aula mala, aequa gravia sed non aequa excusata*; a new Government doth not offend with that Connivance and Safety that an ancient might: And it is now as much become our Interest to call home the King to relieve us, as it is our Duty to restore him to his Right. And as it was at no time unlawful to fly to force for rescuing our selves from the Power of an Usurper; so it is now become necessary, when *meliorem in bello causam, quam in pace habemus*; Our Condition will be better in a War, than it is in Peace, as Tacitus expresseth it. And the Establishment of this Man into a King being done by an usurpation of Power, which all the Laws of England precluded the Conventionists from; that common Saying obtains, That *de facto factum potest de facto nulli*; What bath its Existence merely by Fact, may by Fact be lawfully overthrown. And as we may be sure, That the Prince of Orange who hath so abominably cheated and wronged us already, cannot but despise and hate us for the future; that of the same Author being unchangeably true, viz. *Proprium humani ingenii est, odisse quemque leseris*; It is the Nature of Man to hate those whom he hath injured. I will therefore bespeak my Country-men as Boadicea did the Ancient Britains, If they will not resolve, *cadere aut vincere, either to perish, or to vindicate their Liberties*; that then, *viverent & servirent, let them chuse to Live and be Slaves*. Only let me add for their Encouragement to assert their Laws and Rights, That the Prince of Orange's Affairs in England do *magis fama quam vi stare*, are upheld rather by that Opinion which Men conceived of him, before they had an Opportunity to know him, than by any Power, Strength, Interest, or new Reputation he has to support himself or them. Nay I will say, That he is sunk into that Contempt as well as Impotency, that all the Power he hath left is only to do hurt, but that he hath neither Power nor Authority to do good, or to hinder evil: So that what Tacitus says of Otbo is verified of William; *Ostboni nondum auctoritas inerat ad prohibendum scelus, jubere poterat*; That he may encourage and command Mischief, but he is in no Capacity to discountenance and prevent it. The very Mob, whom by fictitious Lyes and Falshoods, of a few Irish being every where burning Houses and cutting Throats, he decoyed and inflamed into an insolent and brutal Rage against their Rightful King, and who became the Ladder unto, and the great Pillars of his Throne; having

having now understood how they were cheated in that, and in all Things else, they have not only forsook, but are justly enraged against him. Nor are they only ready to do the same towards him that they did towards the King, but they are fully prepared to treat him as the Rabble did *Vitellius*, of whom *Tacitus* lays, *Vulgus eadem pravitate, infelicitabatur mortuum, qua foveret viventem*; they are as forward to curse and tear him in Pieces, as they were formerly to huzza and idolize him. Yea, even such as do most flatter him, do it only in order to deceive and ruin him; for they do reckon by what they have robbed and plundered the Nation of under him, they shall be able both to purchase their Pardons, and to live plentifully upon the next Revolution: Nor are most of the *Addresses* with which our *Gazettes* are Weekly stuff'd, to be otherwise accounted of, than as the Arts and Tricks of Knaves, to banter and deceive Fools. And they do only act that over again upon the Prince of Orange, which was long ago practised upon *Manlius Valence*; of whom *Tacitus* says, *Quo incansius decipitur, palam laudatus*; they court him to his Face, that they may the better cut his Throat behind his Back. For there are none so weak, or unthoughtful, but they must from their own woful Experience allow that to be true which Mr. *Pryn* observeth in his Preface to Sir *Robert Cotton's* Records; namely, *That Kings created and set up merely by Parliaments, without any hereditary Title, have seldom answered the Lords and Commons Expectations in the Preservation of their just Liberties, and answers to their Petitions.* But if People want bravour to push the Defence of their Liberties and Estates thus far, though legally they may, let them at least calmly refuse to pay, and warn the Officers that if they take any Thing, it is at their peril: And I shall account those Collectors and Constables both very unwise, and very bold, who will be so hardy as to break into Mens Houses, and to make destrictions. For let them be assured, That whosoever ventureth upon it, will ere long be called to a reckoning; and besides other Punishments they will be brought to undergo, they will feel what it is to fall under Reprizals. But should any Frantick *Williamite* be so far transported as that amounteth unto, ie becomes every true English Man in that Case to make a *Replevin*; and we shall then see how the Gentlemen in *Scarlet* will decide the Question, Whether this Parliament be a legal Parliament? Nor are they ignorant of the Laws as most others are, which will make their

Crime the more unpardonable, as well as the greater, if they shall
 shew their contempt and trample upon them. And seeing they know what
 was the Fate of *Wayland*, Lord Chief Justice of the Common Pleas,
 in *Edward the First's* time; and of *Thorpe*, Lord Chief Justice of
 the King's Bench in *Edward the Third's* time; and of *Tresilian* and
Bolkenap, and four Judges more, in the time of *Richard the Second*,
 it is to be supposed that they who fill the Benches now, will not
 be ambitious of the like Destiny. Nor will it be amiss for them
 to remember also the Reign of King *Alfred*; who caused hang
 44 *Judges*, or *Judges* in one Year, for corrupt and false Judgments;
 (see *Mirror of Just.* Cap. 5. Sect. 6.) And being acquainted with
 Foreign Histories both Ancient and Modern, it cannot have esca-
 ped them in their Reading, with what beautiful Hangings a certain
 Emperour caused adorn a Court of Judicature; namely, with the
 Skins of corrupt Judges studded with Straw, and hung over the
 Bench where they had prevaricated from Equity, Justice, and
 Law. But if they be loath to look so far back, let them only re-
 collect the Proceeding of the Parliament in the Year 1640, against
 those Judges who in the matter of *Skip-money* had given Judgment
 against Mr. *Humble*. And if that Gentleman being only assedged
 so &c. yet rather than pay it, when he thought not himself obliged
 to it by Law, chose to undergo great Trouble, and to be at vast
 Charges, in order to bring the Validity of the *Skip Writs* to a
 legal Tryal; What will Posterity say of us, if in a Matter of more
 weight in it self, and where all the Law of *England* is on our side,
 we have not the Fortitude and Generousness, through the refusing
 to pay *Taxes*, to force the Case of this Parliaments being dissolved
 by the Death of the late Princess into *Westminster Hall*? And I will
 only say to all true English Men, what *Germanicus* when dying
 said to his Friends, vix. *Eritis vobis locus querendi apud Senatum, &*
inveniendi leges; That this is the Time, if ere there was one, of ap-
 pealing to the *Westminster Hall Courts*, and for calling for the Re-
 lief and Benefit of the Laws of the Kingdom.

And thus, Sir, I have returned you the best Answer I can to
 your second Query, as I had given you one about a Week ago to
 your first. Nor will I presume to trouble you any farther at
 present, save merely to add, That as you do still retain an Au-
 thority over me, and are at Liberty to command me in whatso-
 ever

ever you Judge to be for the Service of my King and Country:
So I do assure you, that I will never in any Thing decline to
obey you; the highest Ambition I have being, to approve my
self,

S. I. R.

Your most humble and most obedient Servant

April 24. 1693.

B R R A T A

Page 2. line 4. for *Assed* read *Asked*, p.4.l.14. before *al/6 r. is*, p.5.
16. r. *infusifus*, *ibid.* l.35. before *Alm r. the*, *ibid.* l.35. before *multijug*,
r. mult, p.10. l.13. for *a r. the*, p.12.l.16. for *hand r. hand*, p.15.l.36. dele.
his, p.39. l.23. r. *Exerjif*, p.42.l.3. and p.42.l.24. r. *Hypothef*.
